

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

| | | |
|------------------------------------|---|------------------------|
| PETRO INDUSTRIAL SOLUTIONS, LLC |) | |
| (PETRO) |) | |
| |) | CASE NO. 1:21-CV-00312 |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| ISLAND PROJECT AND OPERATING |) | |
| SERVICES, LLC, VITOL US HOLDING II |) | |
| CO., VITOL VIRGIN ISLANDS CORP., |) | |
| ANDREW CANNING and OPTIS |) | |
| EUROPE, LTD., |) | |
| |) | |
| Defendants. |) | |
| |) | |

THE ORAL DEPOSITION OF **SEBASTIAN MORETTI**, called
for examination by the Plaintiff in the above-entitled
cause, for purpose of discovery, for use in evidence and
for such other and further uses as are provided by the
Federal Rules of Civil Procedure, was taken before
YVONNE SAMUEL-SETORIE, Registered Professional Reporter,
via Zoom video conference on the 25th day of May 2023,
commencing at 9:07 a.m., pursuant to Notice.

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32 Also Present:
33 Adrian Melendez, Jr.

34

3

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P-R-O-C-E-E-D-I-N-G-S

(SEBASTIAN MORETTI,

having been called as a witness, was duly sworn by the
Notary Public, was examined and testified as follows:)

DIRECT EXAMINATION

BY MS. ROHN:

Q. Good morning. My name is Lee Rohn, and I
represent Petro in this lawsuit.

And could you state your name for the record, please?

A. Sebastian Moretti.

Q. And, Mr. Moretti, where are you employed?

A. Vitol Inc. in Houston.

Q. Have you ever had your deposition taken before?

A. No.

Q. So let me -- I'm sure your lawyer has done a very
good job explaining what a deposition is, but just to make
sure you understand. If you have -- my job is to ask
questions that are clear that you can understand, and your
job is to tell the truth. A deposition is just like you're
in court under oath, same penalties of perjury apply.

If I ask you a question that's not clear, please let
me know. I'll try to make it clear. If I still don't have
it clear, you're entitled to ask me to ask the question

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until you feel like you understand it. If you --
otherwise, I'll assume that you did understand the
question.

Is that fair?

A. Yes.

Q. Okay. This is not an endurance test. You're
free to take breaks when you need them, just let me know.

That's about it. That's just about it, but I'm sure your
attorney has already told you as to a deposition.

So, Mr. Moretti, what did you do to prepare to be
deposed today?

A. I have a -- I meet -- I met with internal counsel
and external counsel about three times.

Q. And over what period of time?

A. Between three hours and five hours.

Q. And was this last week or over -- over what
period of time, meaning -- see that question wasn't
probably very clear.

When did you begin the meetings, and when did you end
the meetings? Not time wise but date wise or week wise.

A. Was about the -- the first one was about three
weeks ago, two weeks ago, and the last one was yesterday.

Q. Was anybody present besides your counsel?

A. Anyone sorry?

Q. Was anyone else present besides your counsel?

6

A. No.

Q. Did you review any documents in preparation for
your deposition?

A. I was showed some -- some documents, yes.

Q. What documents did you review?

A. All my e-mails that I wrote, some letters.

Q. What letters did you review? I've seen a lot of
e-mails. I can't remember seeing letters.

A. One of the letters was that -- the letter you --
actually, your communication on -- first communication on
this case.

Q. I didn't understand that. The letter was what?

A. The letter that actually you sent to -- to IPOS
on the --

Q. Okay. Did you review that letter that I sent to
IPOS at or about the time that it was sent?

A. I did.

Q. And what was the purpose that you reviewed that
letter?

A. I was -- it was sent to me.

Q. And did you discuss that letter, other than
counsel, with anyone else?

A. No. No.

Q. And can you tell me the basis for which you
failed to agree to have Petro paid as a result of receiving

7

that letter?

A. They fail -- can you -- can you say it again,
please?

Q. Sure. Can you tell me why you -- well, as a
result of that letter, what did you decide to do?

A. I mean, it wasn't my decision to do anything on
that.

Q. Whose decision was it?

A. IPOS.

Q. Did you discuss the letter with IPOS?

A. No, I didn't discuss them. I -- I made a comment
with -- to them about that letter.

Q. What was that comment?

A. If I recall correctly, there was a childish --
childish argument.

Q. It was what?

A. Childish argument.

Q. A childless argument?

A. Childish.

Q. What's childless?

A. The definition of a naive approach.

Q. And why did you believe it was a naive approach?

A. Basically it was with a lightly approach on
the -- not underestimating the gravity of the case of what
was behind all those -- all those facts.

8

1 Q. And what was behind all of those facts?

2 A. The lack of documentation of -- provided on the

3 -- on that -- on that specific operation were done.

4 Q. Anything besides that?

5 A. No, I don't think so.

6 Q. Well, did you believe that one of the gravities

7 of the matter was that you believed there were forged

8 documents as to the credentials of the welders?

9 A. No, I don't -- I don't have expertise to say

10 that's how the documents were relevant or not.

11 Q. Did you believe one of the gravity of the

12 situation was that the document that certified the welders

13 was in some way deficient or improper?

14 A. I -- I don't have that expertise.

15 Q. Was part of the gravity of the situation the fact

16 that you'd been told that the document was somehow

17 improper?

18 A. That the documents were -- those letters were

19 modified. Is that the word?

20 Q. Modified. That's a word.

21 And where did you get the information that the

22 documents were modified?

23 A. From David Smith.

24 Q. Do you know where David Smith got that

25 information?

10

1 A. Where?

2 Q. Yes.

3 A. In Argentina.

4 Q. And can you tell me your educational background

5 after high school?

6 A. I was in Argentina Naval Academy.

7 Q. Naval Academy, is that what you said?

8 A. Yes.

9 Q. From when to when?

10 A. I was in the Naval Academy from 1990 to 1993 and

11 the Navy until 2000.

12 Q. So from '93 to 2000?

13 A. Yeah. '90 to -- 1990 to 2000 I was in the Navy.

14 Q. And what type of work did you do when you were in

15 the Navy?

16 A. Uhm, I was -- most of my career was a naval

17 aviator.

18 Q. A naval aviator?

19 A. That's correct.

20 Q. And after leaving the Naval -- sorry. After

21 leaving the Navy, can you tell me what your employment has

22 been?

23 A. Yes, I was flying private for the one year.

24 Q. You were flying private? Is that what you said?

25 A. Yeah. Private planes for a year. And then I

9

1 A. From Andrew Canning.

2 Q. Was that the only letter you reviewed?

3 A. Say again.

4 Q. Was that the only letter you reviewed in

5 preparation for your deposition?

6 A. I don't -- I don't -- I don't think that I

7 reviewed it. I was showed -- it was showed to me again,

8 because I didn't recall what -- what was my comment from.

9 Q. Have you had any conversations with

10 Charlotte Horowitz in the last few days?

11 A. Yes, I did.

12 Q. And when did you have a conversation with

13 Charlotte Horowitz?

14 A. We talked about training. She's very involved in

15 Vitrol training and classes that we are moving from one

16 format to the -- to the other. We were talking about

17 energy operations.

18 Q. Have you talked to Charlotte Horowitz about --

19 that the -- in which the conversation in any way involved

20 this lawsuit in the last week?

21 A. No.

22 Q. Have you in any way learned the substance of

23 Charlotte Horowitz's testimony in this case?

24 A. No.

25 Q. Mr. Moretti, where were you born?

11

1 started working with Trafigura.

2 Q. Whoo. Started working with who?

3 A. Trafigura.

4 Q. Can you spell that?

5 A. T-r-a-f-i-g-u-r-i -- r-a.

6 Q. Okay. And what jobs did you have with Trafigura?

7 A. I started in Buenos Aires for -- as an operator.

8 I was in Buenos Aires for two years doing some barging

9 operations and land operations and -- but mostly marine

10 operations. Then in the 2000 -- 2003, I was transferred to

11 Stanford, Connecticut. I was there for -- for over -- for

12 a year. And then -- yeah, 2003 -- sorry, 2004 I move from

13 Stanford, Connecticut, to Houston, Texas, and I was with

14 Trafigura until -- to the end of 2007, always doing marine

15 operations on different -- different products, different

16 regions.

17 Q. And when you say marine operations, can you tell

18 me what marine operations entailed?

19 A. Yes. Yes. Definitely when the -- when the code

20 of this company wanted to move different products, what we

21 call products from gasoline, different type of gasoline or

22 components, distillate, which means different kind of

23 diesels, jet fuels, crude oil, LPG, means butane and

24 propane. So the trader makes a deal to go to -- to load a

25 cargo on certain port, and then to -- to discharge in

12

1 another port. And that's my work was basically to get that
2 vessel to the port and then safely discharge it on the --
3 on the other end with the vessel arriving on time and on a
4 spec within the contractual terms.

5 Q. And so after 2007 what did you do?

6 A. I moved to Vitol.

7 Q. And why did you move from Trafi -- I can never
8 say this word correct. -- Trafigura --

9 A. Trafigura.

10 Q. Huh?

11 A. Trafigura, yes.

12 Q. -- to Vitol?

13 A. Why? I mean, it was definitely a better job
14 opportunity, and Vitol offer me to - to be in charge of
15 Latin America, working with -- at that time Vitol had an
16 office in Buenos Aires and Rio de Janeiro, and then we
17 opened Bogotá and Mexico, so I -- and my -- my Spanish and
18 knowledge of the region was what Vitol was most interested
19 on.

20 Q. And what was your first position with Vitol? You
21 said in charge of Latin America. But did it have a title?

22 A. No, not really. Not really.

23 Q. Did you do the same type of thing for Vitol when
24 you were in charge of Latin America?

25 A. The -- the same type of what I was doing at

14

1 main departments that I -- I received at that time.

2 Q. And in that position who did you report to?

3 A. At that time I reported directly to the CEO.

4 Q. Who was whom?

5 A. Mike Loya.

6 Q. Can you spell the last name?

7 A. L-o-y-a.

8 Q. And how long were you operations manager?

9 A. I'm still are.

10 Q. Well, I understood that you are the CEO of
11 Vitol Inc. Is that not correct?

12 A. No, that's not correct. Actually, at some point
13 my title changed to vice president of operations.

14 Q. Okay. So when you said you went to work for
15 Vitol in 2013, I think, which Vitol did you go to work for?

16 A. Say it again. Sorry.

17 Q. When you said you went to Vitol in 2013, which
18 Vitol did you go to work for?

19 A. Where Vitol? Where?

20 Q. What's the name of the Vitol company you went to
21 work for?

22 A. Vitol, Vitol Inc.

23 Q. Vitol Inc. Okay.

24 And when you were operations manager, were you
25 operations manager for Vitol Inc.?

13

1 Trafi?

2 Q. Yes.

3 A. Yes, it was the same.

4 Q. And how long were you in charge of Latin America?

5 A. Uhm, I'm still are, not -- not on the day-to-day
6 operations, but I'm still are in charge of Latin America.

7 Q. But did your job position change any?

8 A. My job position change in 2013.

9 Q. And what did it change to?

10 A. Changed for -- to take care of other departments,
11 other --

12 Q. Well, did you -- did you get a job title in 2013?

13 A. Yes.

14 Q. And what was that?

15 A. Was operations manager.

16 Q. And what were your responsibilities as operations
17 manager?

18 A. At the time was in charge of the physical
19 operators, in charge of the commercial analysts, in charge
20 of the root cause of claims and --

21 Q. I'm sorry. I didn't hear that. Was that root
22 cause of planes? Is that what you said?

23 A. Claims, claims and demurrage.

24 Q. Okay. Anything else?

25 A. No, I think -- I think I thought they were three

15

1 A. Yes.

2 Q. And when you were vice president of operations,
3 is it vice president of operations for Vitol Inc.?

4 A. Correct.

5 Q. When did you become vice president of operations?

6 A. I think the title start in 2016.

7 Q. And what were your responsibilities as vice
8 president of operations?

9 A. Same ones.

10 Q. And have you had any other titles with Vitol Inc.
11 since then?

12 A. No.

13 Q. Okay. And as vice president of operations of
14 Vitol Inc., who do you report to?

15 A. Currently to the CEO.

16 Q. And who is that?

17 A. Ben Marshall.

18 Q. Ben Marshall, is that what you said?

19 A. Yes.

20 Q. And when you say you were in charge of physical
21 operators, what does that mean?

22 A. Basically it's the -- what I was doing when I
23 started in Trafigura -- within Vitol. I mean, what I
24 described before as the personnel loading the -- the ships.
25 In this case right now, we move on all mode of

16

1 transportations, not only marine operations. We have some
2 trucks --

3 (Interruption by the court reporter.)

4 MS. ROHN: Heard trucks. We have trucks.

5 BY MS. ROHN:

6 A. I said we move or operate on any kind of mode of
7 transportation from trucks, rail cars, pipelines, barges
8 and to BLCCs -- or BLGCs.

9 Q. What are BLGCs?

10 A. BLGC is a very large gas cargo carrier.

11 Q. And you also said you were in charge of the
12 commercial analysts. Can you tell what commercial analysts
13 do?

14 A. Yes. Those are -- those are the ones basically
15 that they say the bookkeepers for the traders, the one who
16 basically keep in order or keep track of the -- when the
17 cargo is priced, they -- meaning that how much they're
18 going to pay, they basically keep track of those -- with
19 those costs, and when need to be invoiced or when need to
20 be hedged, et cetera, et cetera.

21 Q. And then you also said you are in entitled to
22 (sic) claims and demurrage. Can you tell me what type of
23 claims you're in charge of?

24 A. Yes. The claims and demurrage is -- the
25 demurrage is the term of when the vessel or -- when the

17

1 late time of the vessel or the charter party expires or
2 finish, you enter on what is call demurrage. And that is
3 the -- what is a fixed cost of that ship when it's not
4 loading or discharging or when that period of time extend
5 or over past that laytime. So that create a claim, that
6 the claim is passed from the owners to the charterers and
7 to the charters to the end receiver or supplier.

8 Q. So let me see if I understand this. So would
9 that be if the vessel was not -- didn't reach a port on
10 time, or would that rather be a vessel was not being used,
11 or is it both?

12 A. When -- when you load and discharge, the contract
13 is closed with a window, right. Let's say the -- May 25th
14 to 26th, right, and there is different aspect of that.
15 Let's say if you fix a ship, well, to load on 26th -- 25th,
16 26th, would usually supposed to -- will be better if you
17 have -- you go back to back with the contract that you have
18 supplier or receiver.

19 So let's say the vessel arrives before that -- that
20 what we call window or laycan, right; so you don't pay
21 anything until midnight or 0001 on the 25th. So that's
22 when you are on the clock. So -- and that's when the time
23 is started.

24 So usually typically for any of these cargoes, you
25 have 84 hours laytime, so and divided for what is 36 plus

18

1 6, 36 hours of laytime plus 6, what is called NOR for load
2 and then for the discharging.

3 So the other option, let's say you arrive outside that
4 window later; you are already on the clock by your
5 receiver/supplier. You cannot claim that receiver/supplier
6 because you arrive outside the window on -- and after. So
7 that's when also the owner has a claim against you, but you
8 don't have a claim against the supplier/receiver.

9 And also when you arrive within the window, right, and
10 let's say you go straight to the dock and you start
11 unloading or discharging, but so on the receiver/supplier
12 contract, you have also the 36 hours plus 6, what we call.
13 And then if that period of time is extended, you have a
14 claim -- you can claim for those extra hours to your
15 receiver and -- and supplier. The 36 hours plus 6 are
16 the -- the 6 are what we call NOR.

17 Q. I'm sorry. Called what?

18 A. NOR.

19 Q. Okay. NOR. Okay.

20 A. Notice of Readiness.

21 So when vessel arrives, tender this NOR, and you have
22 let's say extra six -- six hours that -- of cushion there
23 that -- for those -- those 36 hours doesn't start yet. So
24 that's -- that's basically what originated the -- the
25 claims, right.

19

1 But also, there are -- I mean, if you have a vessel,
2 charter party said you have is one -- one load port, one
3 disport, but then you need two load ports, because you need
4 to load in two different terminals, that create extra
5 expenses that are -- are considered or called claims, but
6 actually there is no -- there's no claim. It's extra
7 expenses for that extra port.

8 Q. So, Mr. Moretti, who reports to you in your
9 position of vice president of operations? Well, who
10 reported to you in your position of vice president of
11 operations from 2020 through 2021?

12 A. 2020, 2021 -- no, it's still -- it's still the
13 same -- no, sorry. The CAs, the commercial analysts, they
14 at that time didn't report to me any -- any longer. So at
15 that time I had -- 2021 I had the physical operators,
16 claims and demurrage, and customs compliance.

17 Q. Well, did -- during that time period, did
18 Charlotte Horowitz report to you?

19 A. She's one of the physical operators.

20 Q. And when I call Tim K., because I can't pronounce
21 his last name.

22 A. No one can.

23 Q. Did he report to you as well?

24 A. Yes.

25 Q. Were there particular people at Vitol Inc. that

20

1 performed work for Vitol Virgin Islands Corp.?
 2 A. No. No as a -- no as employees, no.
 3 Q. No as a what?
 4 A. No -- no as employees.
 5 Q. Right. I understand they weren't employees of VI
 6 -- oops. Sorry. Virgin -- Vitol Virgin Islands, but did
 7 they do work that benefited Vitol Virgin Islands?
 8 A. No.
 9 Q. Well, did -- to your knowledge, did
 10 Vitol Virgin Islands have any employees?
 11 A. No, it doesn't.
 12 Q. Okay. Well, then how did it operate, sir?
 13 A. Sorry?
 14 Q. How did it operate?
 15 A. That operation consisted on the supply for
 16 propane to the -- to both plants, St. Croix and St. Thomas.
 17 But that was Vitol Inc. operation.
 18 Q. Well, as part of the contract with WAPA to supply
 19 propane from -- to St. Croix and St. Thomas, did it include
 20 an agreement to maintain the propane facilities?
 21 A. Vitol Inc. has -- has --
 22 Q. Vitol Inc. has what?
 23 A. Can you -- can you say the question again,
 24 please?
 25 Q. Yes. As part of the operations to supply propane

22

1 mean, VTTI is their own company. They have that expertise
 2 and experience to operate --
 3 Q. Excuse me. Once the propane facilities were
 4 constructed in St. Croix and St. Thomas, is it not correct
 5 -- is it correct that part of the agreement to supply
 6 propane included maintaining those facilities?
 7 A. Sorry. Can -- what's -- what's the question?
 8 Q. Sure. I'll try it again.
 9 Once the propane facilities were constructed --
 10 A. Yeah.
 11 Q. -- was the agreement -- did the agreement with
 12 WAPA to supply propane include in an agreement to maintain
 13 the propane facilities?
 14 A. Not -- not -- Vitol Inc. only has the propane --
 15 the supply permit -- the supply of the propane.
 16 Q. Well, who maintains the facilities?
 17 First of all, the propane facilities that were
 18 constructed, who owned those facilities?
 19 A. I'm -- honestly, I'm not certain who owns the
 20 facility. They are on WAPA's land. VTTI was in charge of
 21 building those facilities, and the contract was established
 22 to return those facilities at some point back to WAPA.
 23 Q. Well, currently those facilities are being sold
 24 to WAPA; correct?
 25 A. They're being -- they are in the transition to

21

1 to St. Croix and St. Thomas, did the agreement with WAPA
 2 include -- well, first of all, did the agreement with WAPA
 3 include constructing a propane facility?
 4 A. No. That -- that was a separate thing. And,
 5 actually, I'm not certain who had the contract to build the
 6 -- both facilities.
 7 Q. Well, am I correct you couldn't have fulfilled
 8 the contract to supply propane to St. Thomas and St. Croix
 9 without a propane facility?
 10 A. Yes, Vitol has the contract to supply the
 11 propane.
 12 Q. So you don't know who constructed the propane
 13 facility?
 14 A. The -- the one who constructed the -- the
 15 facilities was VTTI.
 16 Q. Was what?
 17 A. VTTI.
 18 Q. And who oversaw the construction work of VTTI?
 19 A. I -- I don't know who on VTTI.
 20 Q. What company?
 21 A. Was VTTI.
 22 Q. But who oversaw the work that VTTI did to make
 23 sure that it was satisfactory to be able to be used to
 24 provide propane?
 25 A. VTTI is the -- I mean, was the same company. I

23

1 return the plants to WAPA.
 2 Q. And who is involved with the transition to return
 3 -- which Vitol company is involved in transferring those
 4 plants -- that facility back to WAPA?
 5 A. Which -- which company is involved?
 6 Q. Yes.
 7 A. I would say Vitol.
 8 Q. Which Vitol? Is that Vitol Inc.?
 9 A. I am not certain if it's -- which -- I'm not
 10 certain which Vitol is.
 11 Q. Okay. Well, which of them could it be?
 12 MR. KAPLAN: Objection to form.
 13 You may answer.
 14 BY MS. ROHN:
 15 Q. You may --
 16 A. Which should be, probably VVIC.
 17 Q. Who?
 18 A. Vitol Virgin Islands.
 19 Q. Well, how can Vitol Virgin Islands be in charge
 20 of that when it has no employees?
 21 MR. KAPLAN: Objection. Form.
 22 You may answer.
 23 BY MS. ROHN:
 24 A. I -- it's a legal -- a legal -- how -- that's how
 25 the legal --

24

1 (Interruption by the court reporter.)

2 MR. KAPLAN: He said that's how the legal
3 entity is put together.

4 BY MS. ROHN:

5 Q. Well, sir, does -- does Charlotte Horowitz
6 perform work that is beneficial to Vitrol Virgin Islands?

7 A. Sorry. Is -- is that a question or --

8 Q. Yes. Does Charlotte Horowitz perform work that
9 is beneficial to Vitrol Virgin Islands?

10 A. In which regard?

11 Q. Well, does IPOS report -- did IPOS report to
12 Charlotte Horowitz?

13 A. No.

14 Q. So Charlotte Horowitz had no ability to tell IPS
15 what -- for instance, what documents to get when work was
16 being done; is that right?

17 A. That's correct.

18 Q. And did Tim K. have any ability or did Tim K. do
19 any work that was beneficial to Vitrol Virgin Islands?

20 A. No.

21 Q. Did you answer?

22 A. No. No. The answer is no.

23 Q. Sorry. You had your hand in front of your face.
24 I couldn't hear you.

25 So Tim K. had no authority, am I correct, to tell IPOS

25

1 what documents needed to be produced, is that correct, if
2 certain job was being done?

3 MR. KAPLAN: Objection to form.

4 You may answer.

5 BY MS. ROHN:

6 A. That's correct.

7 Q. And who -- am I correct that there are from time
8 to time contracts given to companies to maintain the
9 propane facilities?

10 A. Sorry. Can you ask it again, please?

11 Q. Yes. Am I correct that from time to time there
12 are contracts with companies to maintain the propane
13 facilities?

14 A. Yes.

15 Q. And who decides who those contractors are going
16 to be?

17 A. The company that needs the service.

18 Q. Pardon?

19 A. The company that needs the service.

20 Q. Okay. What company is that?

21 A. You asked hypothetical question. What -- I
22 mean --

23 Q. No, it wasn't hypothetical. I asked whether or
24 not time to time there are contracts with people, companies
25 to maintain their facilities. That wasn't a hypothetical.

26

1 A. Okay. Which company are you referring to?

2 Q. Well, let's start with IPOS.

3 A. Okay. So what's the question, please?

4 Q. Who made the decision to give the contract to
5 IPOS?

6 A. That's -- I mean, at that time I -- IPOS is a
7 company related to VTTI. I assume that was VTTI.

8 Q. And who gave VTTI the authority to hire IPOS?

9 A. It was his -- their C -- ex-CEO Larry,
10 Larry Stoker.

11 Q. And who did IPOS report to as far as that
12 contract?

13 MR. KAPLAN: Objection. Form. Ambiguous.
14 You can answer.

15 BY MS. ROHN:

16 A. IPOS reported to VTTI.

17 Q. And who would VTTI report to?

18 MR. KAPLAN: Objection. Form.

19 You can answer.

20 BY MS. ROHN:

21 A. They are their own company.

22 Q. And are you aware that there came a time that the
23 contract to IPOS was not renewed?

24 A. Correct.

25 Q. And who made the decision not to renew that

27

1 contract?

2 A. IPOS' contract expire.

3 Q. Right. Who made the decision not to renew it?

4 A. IPOS was -- in order to renew it, they -- they
5 come up with a -- they made an offer that was too expensive
6 than what we assumed or thought outside the market -- of
7 the market.

8 Q. Who did they make that offer to?

9 A. The offer was sent to -- to -- at that time to --
10 to Max, Max Bulk.

11 Q. Max who?

12 A. Max Bulk.

13 Q. Can you spell it, please?

14 A. B-u-l-k.

15 Q. And who did he work for?

16 A. Vitrol Inc.

17 Q. I'm sorry. VTTI, is that what you said?

18 A. No. Vitrol Inc.

19 Q. Vitrol Inc. I'm sorry. I'm starting to get used
20 to your accent just a little.

21 Okay, Vitrol Inc. All right.

22 And why would that have been made to Vitrol Inc.?

23 A. Because we -- we were the ones supplying the --
24 the propane.

25 Q. I thought you said Vitrol Virgin Islands supplied

28

1 the propane?
 2 MR. KAPLAN: Objection. Form.
 3 You can answer.
 4 BY MS. ROHN:
 5 A. No, was Vitol Inc.
 6 Q. And who made decision to give the contract to
 7 Saintnals?
 8 A. Was a joint decision.
 9 Q. The same John --
 10 A. No. No. Was a joint decision.
 11 Q. Between who and who?
 12 A. At that point it was Max Bulk the COO, ex-COO.
 13 Q. Can you say that name again?
 14 A. Max, Max Bulk.
 15 Q. Maxwell who?
 16 A. Max Bulk was the COO. He was the COO.
 17 Q. Of who?
 18 A. Vitol Inc.
 19 Q. And who else?
 20 A. Myself.
 21 Q. Anyone else?
 22 A. No, I think it was --
 23 Q. And who made the decision to discontinue Mr. --
 24 OPTIS' contract?
 25 A. It was mine.

30

1 which we agreed to present Mr. Moretti as the
 2 corporate rep. And he's prepared to answer your
 3 questions on that. So --
 4 MS. ROHN: So my notes were so bad that I
 5 couldn't -- I couldn't decipher my own notes.
 6 MR. KAPLAN: That's fine. All I want to do is
 7 be clear that we're starting that portion now. And
 8 that as soon as we're done, we go back to --
 9 everything we've done thus far is in Mr. Moretti's
 10 individual capacity. You can ask him questions on
 11 that topic, and when we're done, we'll mark that we
 12 are transitioning back to his individual capacity.
 13 MS. ROHN: Yeah, I want to do all the issues
 14 for 30(b)(6) all at one time. So that's exactly what
 15 I'm attempting to do.
 16 MR. KAPLAN: I think that's the only issue for
 17 Mr. Moretti.
 18 MS. FRANCIS: Can we just identify which topic
 19 you're referring to, please?
 20 MR. KAPLAN: Yes. So that's -- that's what
 21 I'm getting at.
 22 MS. FRANCIS: Okay.
 23 MR. KAPLAN: I don't believe there's an
 24 actual topic in the notice that expressly states that.
 25 What I agreed -- but nonetheless, I committed on the

29

1 Q. And what was the basis for deciding not to
 2 continue the contract with OPTIS?
 3 A. Uhm, when we put Saintnals, Saintnals became the
 4 operator of IPOS -- sorry. Saintnals replaced IPOS, and
 5 Saintnals became the -- the operator of the plant,
 6 Saintnals came with a more robust extended team that -- and
 7 having the expertise --
 8 (Interruption by the court reporter.)
 9 MS. ROHN: Of Canning was a redundancy.
 10 BY MS. ROHN:
 11 Q. All right. At the deposition of
 12 Vitol Virgin Islands, you were designated to answer for
 13 certain questions.
 14 Hold on. Give me a minute. Sorry.
 15 The first one is as to the propane facility. Who --
 16 what company contracted with OPTIS for Mr. Canning to come
 17 there?
 18 MR. KAPLAN: Counsel, can I -- can we just get
 19 clear on this? So what I have recorded from Wednesday
 20 is that you asked the Vitol Virgin Islands Corp. rep,
 21 Ms. Horowitz, why the contract -- why Mr. Canning of
 22 OPTIS' consulting services went from IPOS to
 23 Vitol Virgin Islands.
 24 MS. ROHN: That's it.
 25 MR. KAPLAN: That's -- that's the topic on

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1 record to make Mr. Moretti available on this topic, as
 2 I stated, which is why did -- from
 3 Vitol Virgin Islands Corp.'s standpoint, why was the
 4 decision made to contract directly with OPTIS and
 5 Mr. Canning, as opposed to his prior arrangement as a
 6 consultant for IPOS.
 7 MS. ROHN: Correct.
 8 BY MS. ROHN:
 9 Q. Can you answer that question, Mr. Moretti?
 10 A. Yes. There were more projects relate -- related
 11 -- related directly to -- to Vitol --
 12 Q. I'm sorry. Can you start that over again? I'm
 13 not understanding your answer.
 14 A. There were more projects related to Vitol than --
 15 than WAPA, and -- and the way that the contract was
 16 stipulated with Andrew Canning, we needed to go through
 17 IPOS. So switching the -- the contract from Andrew Canning
 18 -- from IPOS to Vitol, that will allow us to interact
 19 directly with Andrew Canning.
 20 Q. Again, but am I correct that the contract went
 21 from OPTIS to Vitol Virgin Islands? Or did it go from
 22 OPTIS to Vitol Inc.?
 23 A. Honestly, I -- I don't know. And when -- when we
 24 refer to Vitol, it's sometimes -- most of the time it's the
 25 same to -- to answer that. I don't know if it was

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1 Vitol Virgin Islands or Vitol Inc. I don't know.

2 Q. When you said when you refer to Vitol, sometimes
3 it's what?

4 A. Or else it's Vitol. We don't -- we don't define
5 most of the time which companies.

6 Q. Okay. So I -- a follow-up question that was
7 asked of Ms. Horowitz for Vitol Virgin Islands, she said
8 that one of the basis for the transfer was that because of
9 Canning's experience with IPOS, that's why Vitol VI decided
10 to hire Canning.

11 And the question was: And what experience was that
12 that would be necessary for Vitol Virgin Islands?

13 A. Sorry. I couldn't hear the first part.

14 Q. One of the follow-ups was -- one of the
15 statements made by Ms. -- Vitol Virgin Islands was is that
16 one of the reasons that Canning was transferred from IPOS
17 to work for Vitol Virgin Islands was because of the
18 experience that Canning had from Vitol.

19 Can you answer what experience that was -- I mean,
20 with IPOS, can you -- let me start over again.

21 The question to Ms. Horowitz was one of the reasons
22 that Canning was transferred from IPOS to
23 Vitol Virgin Islands was because of the experience he had
24 gotten from IPOS. And the question was asked what
25 experience was that that would be beneficial to

33

1 Vitol Virgin Islands, which she was unable to answer.

2 Can you explain what experience Canning had with IPOS
3 that would have been beneficial to Vitol Virgin Islands?

4 A. His engineering experience and knowledge of the
5 terminal.

6 Q. And do you know whether or not --

7 MS. ROHN: This is, I think, the end of the
8 30(b)(6) questions.

9 BY MS. ROHN:

10 Q. Do you know if Saintnals is a Virgin Islands
11 company or U.S. company?

12 MR. KAPLAN: Sorry. I don't mean to
13 interrupt. But just to clarify, when you say "this is
14 the end," you mean you are done, and this is a new
15 question or --

16 MS. ROHN: That's correct. That is the end.
17 I've concluded my 30(b)(6).

18 MR. KAPLAN: You can ask the question again.

19 BY MS. ROHN:

20 Q. Do you know if Saintnals is a Virgin Islands or
21 U.S. company?

22 A. I don't know.

23 Q. And then I was told that you would know, not
24 necessarily as a 30(b)(6) witness, why the truck rack at
25 WAPA is not now in service.

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1 A. Lack of permits.

2 Q. Were you in any way involved in the decision of
3 hiring Petro to work at the St. Thomas, St. Croix propane
4 facilities?

5 A. No, I wasn't.

6 Q. Were you at some point aware that Petro had been
7 hired to work at those facilities?

8 A. I -- they made me aware at some point.

9 Q. How did you become aware?

10 A. I think that when -- I think when they visit us,
11 they asked to visit us in Houston. That's when I think I
12 got knowledge of them being one of the contractors.

13 Q. And did you attend that meeting?

14 A. Yes.

15 Q. And do you recall approximately when it was?

16 A. Was a social visit, and I remember about -- that
17 we talked about maintenance and importance of a maintenance
18 plan.

19 Q. My question was: Do you recall approximately
20 when that was?

21 A. Two years ago. Beginning 2021. I don't -- I
22 don't remember.

23 Q. And how did you come to attend that meeting?

24 A. How what? Sorry.

25 Q. Yeah. How did it come about that you were at

35

1 that meeting?

2 A. I -- I was invited.

3 Q. By whom?

4 A. Probably it was by -- by Charlotte.

5 Q. And why would you be invited by Charlotte to
6 attend that meeting?

7 A. Because she reports to me, and I'm the operations
8 manager.

9 Q. Well, what involvement did you have with the
10 St. Croix, St. Thomas propane facility that caused you to
11 be invited to the meeting?

12 A. Same, I'm the operations manager.

13 Q. And when you were invited by Charlotte to the
14 meeting, did she -- what did she tell you as to the purpose
15 of the meeting?

16 A. That Petro Industrial was visiting us.

17 Q. I'm sorry. I didn't understand that one.

18 A. That Petro Industrial was visiting us, if I would
19 like to meet them. That's --

20 Q. And why would you have liked to meet them?

21 A. Because I never say no to anyone that want to
22 visit us.

23 Q. Well, was part of the reason that you were
24 invited to this meeting is because you oversaw the
25 operations of the propane facilities in St. Croix,

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1 St. Thomas?
 2 A. No. I over -- oversaw the supply.
 3 Q. Well, sir, wouldn't it be true that you couldn't
 4 supply propane to WAPA if your facilities were not properly
 5 maintained?
 6 A. That's for sure.
 7 Q. So didn't you have an interest in making sure
 8 those facilities were maintained as a supplier of the
 9 propane?
 10 A. You can say so.
 11 Q. And so part of the supplying of propane included
 12 making sure that the propane facilities were properly
 13 maintained; correct?
 14 A. No. That was IPOS' responsibilities.
 15 Q. And IPOS was contracted with Vitol; correct?
 16 A. Correct.
 17 Q. And at that meeting who attended?
 18 A. I think it was Charlotte, Tim, myself, Adrian,
 19 and -- and Chad.
 20 Q. And how long before the meeting were you aware
 21 there was going to be a meeting?
 22 A. I don't know. I don't recall.
 23 Q. Okay. And where did the meeting occur?
 24 A. Where?
 25 Q. Yes.

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1 Q. Okay. How long did the meeting last?
 2 A. I would say 30 minutes, no more than 45.
 3 Q. So do you recall Petro giving suggestions for
 4 what types of maintenance would be -- should be done?
 5 A. No.
 6 Q. Do you recall any discussions as to time sheets?
 7 A. No.
 8 Q. At some time was there a decision to -- did you
 9 learn of a decision to terminate Petro's contract?
 10 A. What about it? Sorry.
 11 Q. At some time did you learned of a decision to
 12 terminate Petro's contract?
 13 A. When I learn of that?
 14 Q. Okay. When did you learn about it?
 15 A. No, I -- June -- June last -- June 2021,
 16 July 2021.
 17 Q. And how did you learn about it?
 18 A. I -- I'd -- David Smith gave me a call.
 19 Q. Who? David Smith?
 20 A. (Nodding.)
 21 Q. And what did David Smith tell you?
 22 A. That -- I don't recall if he -- he was telling me
 23 that was terminated or he will terminate Petro Industrial's
 24 contract.
 25 Q. Okay. I don't -- you said I don't understand if

37

1 A. At Vitol's office.
 2 Q. And when you say Vitol, are you referring to
 3 Vitol Virgin Islands and Vitol Inc.?
 4 A. Vitol Inc. in Houston.
 5 Q. And you said one of the subjects that was
 6 discussed was maintenance; am I correct?
 7 Is that a yes?
 8 A. Yes.
 9 Q. Okay. It's helpful for the court reporter if you
 10 speak up, because she has to take it down. She can take
 11 down a nod of the head, but it takes her longer.
 12 So what about maintenance was discussed?
 13 A. Nothing in particular.
 14 (Interruption by the court reporter.)
 15 A. Nothing in particular. Just in general.
 16 Q. What was discussed in general?
 17 A. How important the maintenance was for -- for the
 18 terminal.
 19 Q. Well, was there any discussion as to what types
 20 of maintenance needed to be done to the propane facilities?
 21 A. No.
 22 Q. And was anything else discussed?
 23 A. No.
 24 Q. I beg your pardon?
 25 A. No.

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1 he said it was terminated or he was going to terminate. Is
 2 that what you said?
 3 A. Yeah, I don't know which one it was. I recall
 4 having the -- the -- that conversation with him.
 5 Q. Okay. And was it a discussion as to why?
 6 A. We -- he was -- he was telling me about the --
 7 about communicating to me about what -- what's going on.
 8 Q. Was what?
 9 A. What's -- what's going on.
 10 Q. Which is what did he tell you about what was
 11 going on?
 12 A. I mean, first, as we discussed at the beginning,
 13 the -- the doubts on the certificates, and then there were
 14 communications about other anomalies.
 15 Q. Abnormalities, is that what you said?
 16 A. Anomalies.
 17 Q. Anomalies. Sorry.
 18 Okay. So what was discussed about the doubts of these
 19 certificates? Is these -- are these welder certificates
 20 you're referring to?
 21 A. Yes.
 22 Q. What was discussed as to the doubts as to the
 23 welder certificates?
 24 A. The validity.
 25 Q. And what was discussed as to their validity?

40

1 A. About the signature on -- on those certificates.
 2 Q. What were the anomalies that were discussed?
 3 A. That they were signed by the person that wasn't
 4 working for that company at that -- at that time.
 5 Q. Did you do anything to verify whether or not
 6 there were doubts to the certificates -- as to the
 7 certificates? Did you do anything to verify whether or not
 8 there were in fact any anomalies?
 9 A. No, I didn't.
 10 Q. And how often would you speak to David Smith?
 11 A. I speak with him quite often.
 12 Q. Well, how -- how -- how often is quite often to
 13 you?
 14 A. Well, he's the manager of one of the terminal
 15 that we are in in Florida; so I will -- we call -- we talk
 16 about every other week or once a month.
 17 Q. At some point were you aware that David Smith was
 18 the manager of Petro -- excuse me, was the manager of IPOS?
 19 A. Yes, of course.
 20 Q. And when David Smith was the manager of IPOS, how
 21 often did you speak to him?
 22 A. I would say every other week.
 23 Q. What sorts of things would you speak to him
 24 about?
 25 A. Basically, if there was something that will delay

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1 A. He was the -- the office manager before
 2 David Smith.
 3 Q. And how often would you speak to Mr. Merlin
 4 Figuor -- Figuerois? Is that what you said?
 5 A. Figueira.
 6 Q. Figueira. Sorry. Figueira.
 7 How often would you speak to him?
 8 A. Same. Every other week or so.
 9 Q. And how often would you e-mail with Mr. Figueira?
 10 A. Not -- not that often.
 11 Q. How much would you e-mail to or receive e-mails
 12 from David Smith?
 13 A. Same thing, not -- not very often.
 14 Q. And would you be copied on e-mails from
 15 David Smith to Charlotte Horowitz?
 16 A. Sometimes, yes.
 17 Q. How often would that occur?
 18 A. When they need some -- when they need something
 19 to report.
 20 Q. And what types of things would they copy you on
 21 when they report to -- they -- what kinds of things were
 22 they reporting about when they would copy you on them?
 23 A. Some damages, some, delays, some things out of
 24 the normal operation.
 25 Q. And why would they report to you about things out

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1 the -- and the operation meaning that our vessels wouldn't
 2 be able to get into the -- into the dock.
 3 Q. Well, sir, didn't you speak to him about
 4 maintenance issues at the facility?
 5 A. Once in a while, probably.
 6 Q. Who did you understand -- when David Smith was --
 7 did you know David Smith to be the manager of IPOS?
 8 A. Correct.
 9 Q. Okay. And why would you be speaking to the
 10 manager of IPOS?
 11 A. Because I'm operations manager at -- at Vitol,
 12 and he's providing a service to Vitol.
 13 Q. And when you're referring to Vitol, you're
 14 referring to Vitol Inc.?
 15 A. Yes.
 16 Q. And this is another name I have a hard time with;
 17 so I also refer to Merlin as Merlin F., because I have a
 18 hard time with his last name as well.
 19 Do you know Merlin F., Figueira or something like
 20 that?
 21 A. Figueira, yes.
 22 Q. Figueira. Thank you.
 23 The answer is yes?
 24 A. Yes.
 25 Q. And who did you understand Merlin F. to be?

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1 of the normal operation at the St. Croix, St. Thomas
 2 propane facilities?
 3 A. Because I'm the operations manager at Vitol.
 4 Q. Are you aware of the procedure of how contractor
 5 employees' times were kept at the St. Croix, St. Thomas
 6 propane facilities?
 7 A. Sorry, what's -- what's the question?
 8 Q. Were you involved or did you -- were you involved
 9 or did you have any knowledge as to how the contractor
 10 employees' times were kept at the St. Croix or St. Thomas
 11 propane facility?
 12 A. No, I'm not.
 13 Q. Were you ever made aware of any irregularities of
 14 how the contractors' time sheets were kept?
 15 A. I hear about -- about the issue.
 16 Q. Okay. And what issue are you talking about?
 17 A. That the time sheets were not accurate.
 18 Q. Do you remember when you heard that?
 19 A. No.
 20 Q. Who did you hear that from?
 21 A. Was it Charlotte was one that mentioned at that
 22 time.
 23 Q. Was that in person or by e-mail or both?
 24 A. Person, for sure.
 25 Q. Can you recall the details about what she told

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1 you about the inaccuracies on the time sheets?

2 A. No.

3 Q. As a result of learning of the inaccuracies, the
4 alleged inaccuracies of the time sheets, did you recommend
5 any actions?

6 A. No.

7 Q. Were you ever made aware of claims by
8 Andrew Canning that he fell through a grate that had been
9 constructed by Petro?

10 A. No.

11 Q. Are you aware that in January of 2021 there began
12 to be holdbacks of payments to Petro on accounts
13 receivables?

14 I'm sorry. Did you answer?

15 A. Yes. The answer is no --

16 Q. Oh, sorry. I didn't hear you.

17 A. -- I wasn't aware.

18 Q. At any time did you become aware that there were
19 outstanding receivables or outstanding invoices of Petro
20 that were not being paid?

21 A. Say it again. Sorry.

22 Q. At any time were you made aware that there were
23 outstanding invoices of Petro that were not being paid?

24 A. Yes.

25 Q. And when did you first become aware of that?

45

1 A. I don't -- I don't remember.

2 Q. Was it in 2021? 2020?

3 A. Has to be 2021.

4 Q. Okay. And how did you become aware of that?

5 A. By e-mail.

6 Q. By what?

7 A. By e-mail.

8 Q. Oh, sorry.

9 And who was the e-mail from?

10 A. Most probably from -- from Charlotte.

11 Q. And why did you understand those invoices were
12 not being paid?

13 A. Because of lack of documentation.

14 Q. Well, if Charlotte had no ability to say what
15 types of documentation needed to be made, why would she be
16 telling you about lack of documentation?

17 MR. KAPLAN: Objection. Form.

18 You could answer.

19 BY MS. ROHN:

20 A. That -- that was coming from -- from IPOS. IPOS
21 or -- or someone who -- someone involved on that -- on that
22 part of the -- of the operation that there are -- they
23 assess that all the documents were not there.

24 Q. Who did you understand had requested those
25 documents?

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1 A. I mean, I would I say that IPOS need all those
2 documents to -- to have the proper documentation of what's
3 -- what's done.

4 Q. Well, then why wasn't IPOS telling you about the
5 lack of documentation but instead telling Charlotte?

6 MR. KAPLAN: Objection. Form.

7 You can answer.

8 BY MS. ROHN:

9 A. Charlotte had more daily interaction with them.

10 Q. And why was Charlotte having more activity with
11 IPOS?

12 A. She was the operator who was working on the ships
13 that were supplying the propane to the island.

14 Q. And so she was the person who was directly making
15 sure that the propane facilities were maintained; correct?

16 A. No, that's not correct.

17 Q. So if she didn't care that whether or not the
18 facilities were maintained or not, why was she having
19 conversations with IPOS?

20 A. Say it again. Sorry.

21 Q. So if she didn't care whether or not the
22 facilities were maintained, why was she having
23 conversations with IPOS, who was in charge of the
24 maintenance of the facilities?

25 A. Because if anything goes wrong, we wouldn't be

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1 able to discharge our ships.

2 Q. Well, sir, it's more than just something
3 preventing discharge of the ships, isn't it? She was
4 involved in issues of maintenance of the facilities, was
5 she not?

6 A. That -- that she may knew, yes. She was
7 involved, no. The -- the maintenance was responsibility
8 was IPOS. Like -- like now is Saintnals. Was she
9 responsible for the maintenance? Definitely, no, she
10 wasn't. She may give some advice or basically put the --
11 the urgency that things need to be done for her to be able
12 to discharge the propane, yes. Why there was urgency to
13 get the propane discharged, to keep the lights on on the
14 island.

15 Q. Well, let's talk about the lights on on the
16 island. There are times when Vitol has threatened to cut
17 off propane to the island, is there not?

18 MR. KAPLAN: Objection. Form.

19 You may answer.

20 BY MS. ROHN:

21 A. No, there wasn't any threats.

22 Q. Really? There weren't statements that if
23 payments weren't made by a certain time, that there'd be no
24 more propane sent?

25 MR. KAPLAN: Objection. Form.

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1 BY MS. ROHN:

2 A. That's -- that's not a threat. that's a fact. I
3 mean, if you don't get paid for a service, you stop the
4 service, right?

5 Q. But you realize, of course, that would turn off
6 the lights in the Virgin Islands; correct?

7 A. Not -- not -- not certainly, because WAPA has the
8 -- the possibility to switch to diesel. Of course, it's
9 cheaper for propane. That it was convenient for everyone.

10 Q. Were you ever made aware of any complaints about
11 Andrew Canning and his treatment of Virgin Islanders or
12 local residents?

13 A. No.

14 Q. Even to this day you don't know about that?

15 A. I hear about that.

16 Q. Okay. Well, when did you hear about that?

17 A. Actually, when I -- I was called for this
18 deposition.

19 MR. KAPLAN: In your answer --

20 BY MS. ROHN:

21 Q. Okay, if it's something your attorney told you, I
22 don't want to know that.

23 Other than your attorney telling you that, did you
24 hear about it from anywhere else?

25 A. No.

50

1 A. That the job -- the -- the payment was delayed
2 because of the -- the lack of documentation and all.

3 Q. Now, Petro actually did work directly for Vitol
4 as well, did they not?

5 A. No.

6 Q. You weren't aware that Vitol Virgin Islands hired
7 Petro to do certain work themselves?

8 A. No, I'm not aware of that.

9 Q. Are you aware, sir, that the invoices that were
10 held back by IPOS have now all been paid, and the only
11 outstanding invoices are those that were to Vitol itself?

12 A. No.

13 Q. Is it your testimony that Vitol did not do work
14 -- I'm sorry, that Petro did not do work for Vitol?

15 A. Petro was hired by IPOS.

16 Q. So, I'm sorry, I want to make sure. Is it your
17 testimony that Petro did not do work for either
18 Vitol Virgin Islands or Vitol Inc.?

19 A. That's correct. Petro was hired by IPOS.

20 Q. As to the quality of Petro's work, did you ever
21 hear any criticisms as to the quality of Petro's work?

22 A. I did hear.

23 Q. Okay. And what did you hear as to the quality of
24 Petro's work?

25 A. About the -- the anomalies, failures on the

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1 Q. Did you ever participate in e-mails or
2 conversations about holding back payment of Petro's
3 invoices at any time?

4 A. Yes.

5 Q. Okay. And when did you begin to have those
6 conversations or e-mails?

7 A. At the time they happen. I would say two years
8 ago. Sometime in 2021.

9 Q. And why were you involved?

10 A. Because I'm the operations manager of Vitol Inc.

11 Q. And were you in favor of holding back the
12 payments on the invoices?

13 A. If I was -- was what? Sorry.

14 Q. Were you in favor of holding back the payments on
15 the invoices?

16 A. If there was some kind of a issue that -- or --
17 or the documents not provided or the actions not made or
18 the job not done, yes, I was in favor to not pay for that
19 service that wasn't -- wasn't finalized.

20 Q. Well, did you receive any information that the
21 jobs weren't done?

22 A. No.

23 Q. So would you agree with me that the jobs had been
24 completed, and, am I correct, the issue of holding back
25 invoices was as a result of documentation?

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1 weldings.

2 Q. On the anomalies of the what?

3 A. Or failures or wrongdoing on the weldings.

4 Q. And when did you hear that?

5 A. It was two years ago.

6 Q. 2021, would that be fair?

7 A. Yes.

8 Q. Okay. And how did you hear that?

9 A. I would say by -- by e-mail.

10 Q. And from whom?

11 A. David, David Smith.

12 Q. And at that time was David Smith at IPOS, or was
13 David Smith an operator in Florida?

14 A. I think it was still the operation manager of
15 IPOS but already based in -- in Florida.

16 Q. He was the operations manager of IPOS, but based
17 in where?

18 A. Florida.

19 Q. Well, how was he operations manager of IPOS but
20 in Florida?

21 MS. FRANCIS: Objection. Foundation.

22 BY MS. ROHN:

23 Q. You may answer.

24 A. I don't know.

25 Q. Well, who was he in Florida working for?

52

1 MS. FRANCIS: Objection.
 2 BY MS. ROHN:
 3 Q. You may answer.
 4 A. David Smith, who works for VTTI.
 5 MS. ROHN: I'm going to start sharing
 6 documents, so -- it might be -- we been going for
 7 about an hour and a half, how about a ten-minute
 8 break?
 9 MR. KAPLAN: That sounds great.
 10 (A recess was taken at this time.)
 11 BY MS. ROHN:
 12 Q. Okay, I'm going show you documents Bates stamps
 13 4401 to 4404 out of Exhibit 81.
 14 (IPOS' First Supplemental Response to Plaintiff's
 15 Request for Production of Documents was previously
 16 marked as Exhibit 81 for identification.)
 17 MS. ROHN: And if you scroll down.
 18 BY MS. ROHN:
 19 Q. These are e-mails from April 2019.
 20 MR. KAPLAN: Hold on one second. You're on
 21 Exhibit 81, and what pages did you say?
 22 MS. ROHN: 4401 through 4404.
 23 MR. KAPLAN: That's not the Exhibit 81 that we
 24 have. Exhibit 81 that we have is --
 25 MS. ROHN: Oh, it's IPOS, sorry, 4401 to 4404.

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1 (E-mails Bates Nos. IPOS 4401 to 4404 were marked
 2 as Exhibit 81A for identification.)
 3 BY MS. ROHN:
 4 Q. So do you need that to be made any bigger, sir?
 5 A. No.
 6 Q. Okay. Great.
 7 This is from Ignacio Tolosa. Do you know
 8 Ignacio Tolosa?
 9 A. Yes.
 10 Q. And who is Ignacio Tolosa?
 11 A. He was a finance person in Seaport Canaveral.
 12 Q. I'm sorry. He was a finance person for whom?
 13 A. Seaport Canaveral. It's a terminal in Florida.
 14 Q. Seaport Canaveral?
 15 A. Yes.
 16 Q. Okay. And then there -- this is also from -- to
 17 Laura Ryan @vitol.com. Do you know Laura Ryan?
 18 A. No.
 19 Q. And then also copied to Eduardo Garcia
 20 @vitol.com. Do you know Eduardo Garcia?
 21 A. Yes.
 22 Q. And who is -- what company did Eduardo Garcia
 23 work for?
 24 A. For Vitol.
 25 Q. Vitol Inc.?

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1 MR. KAPLAN: Exhibit 81 that you sent us is
 2 IPOS document responses. You're saying these were
 3 documents that were attached to those?
 4 MS. ROHN: Yep. That's what happens when
 5 people document dump.
 6 MR. KAPLAN: I can't speak to any of that, but
 7 he doesn't have --
 8 MS. FRANCIS: I would object to that comment.
 9 That's completely unwarranted.
 10 MS. ROHN: Well, we'll see when we rule on the
 11 motion for sanctions.
 12 MR. KAPLAN: I'll advise the witness doesn't
 13 have a physical or electronic copy of that. He can
 14 only see it through the screen share; so you just have
 15 to make sure --
 16 MS. ROHN: Okay.
 17 MR. KAPLAN: -- you're showing him documents
 18 that he can view.
 19 MS. ROHN: I will do so.
 20 MR. KAPLAN: Thank you.
 21 MS. ROHN: So this -- this exhibit, which will
 22 now be 81A for the purposes of this deposition because
 23 I have multiple depo -- exhibits from 81, starts --
 24 Can you go to 4403? Go down to the bottom of
 25 that. Right there is perfect.

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1 A. Vitol Inc.
 2 Q. And what was his position with Vitol Inc.?
 3 A. He was our originator.
 4 Q. What does an originator do?
 5 A. The person who -- the people that goes and go for
 6 new business, starting new projects on.
 7 Q. Okay. And then it's also copied to David Smith,
 8 vtti.com, and others. "Subject: IPOS Budget July 2017 to
 9 June 2018."
 10 It says "Hi Laura, As discussed, the attached
 11 spreadsheet contains the actuals per month, per budget line
 12 item, making up the 70 -- 772.9k operating expense overruns
 13 for the period of July 2017 - June 2018."
 14 Do you know why Tolosa would be sending that to
 15 Vitol Inc.?
 16 A. Vitol would be paying this -- this amount.
 17 Q. Vitol Inc. would be paying these amounts?
 18 A. Correct.
 19 MS. ROHN: And then if you scroll up.
 20 BY MS. ROHN:
 21 Q. On the top is another e-mail from Tolosa on
 22 March 14, 2019, to Laura.
 23 "Attached please find two excel files including all
 24 the lines for all accounting entries into our systems.
 25 Each file has pivot tables per month reconciling to the

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1 spreadsheet we sent before with the overruns?"

2 Would this be being sent to Vitol Inc. again because

3 Vitol Inc. is actually paying the bills for IPOS' overruns?

4 A. What's the question? Sorry.

5 Q. Sorry. Would this e-mail had been sent to

6 Vitol Inc. as well because Vitol Inc. was paying the cost

7 of operating expenses for the -- the St. Croix, St. Thomas

8 propane facility?

9 A. Correct.

10 Q. And if you look to the bottom --

11 MS. ROHN: Hold on. It's the last paragraph.

12 Right there.

13 BY MS. ROHN:

14 Q. It says "We would like to propose this one as the

15 new structure for controlling the budget on a monthly basis

16 going forward as we have discussed before, as you will have

17 the possibility of requesting details per general ledger

18 account."

19 So did Vitol Inc. review the budgets for the

20 maintenance of the propane facilities in the

21 Virgin Islands?

22 A. No.

23 Q. What?

24 A. No.

25 Q. So can you tell me why Mr. Ignacio would be

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1 Q. Okay. And Mr. Edward Garcia (sic) of Vitol Inc.

2 says "We are waiting to receive actuals for the

3 July 2018-February 2019. Could you please provide?"

4 Do you know why that was being requested of

5 Ignacio Tolosa of VTTI?

6 A. No.

7 Q. Okay. And then if you scroll up, on March 15th,

8 Mr. Tolosa tells Edward Garcia of Vitol Inc.

9 "January and February added to the report I sent yesterday.

10 "We will send you a new version of the projection for

11 the remaining 4 months of the proposed budget for

12 July 2019-June 20 early next week."

13 So, sir, the budgets were in fact going to Vitol Inc.,

14 were they not, sir?

15 A. Correct.

16 Q. And the reason the budgets were going to

17 Vitol Inc., sir, is what?

18 A. Eduardo was the -- the one in contact with WAPA

19 at that time; so Eduardo was the one communicating the

20 budget for the following year and the actuals to WAPA.

21 Q. Well, as I -- as -- as the 30(b)(6) witness for

22 Vitol Virgin Islands has testified, there were yearly

23 projected budgets, and then they would be divided into 12

24 payments, and WAPA would make a monthly payment, but Vitol

25 would actually pay the invoices from those monthly payments

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1 telling Laura of Vitol Inc. that they're proposing this new

2 structure for controlling the budget; why those

3 conversations would be had with Vitol Inc.?

4 A. Assume because of the one paying -- was paying

5 the other. This was not about the amounts. It was about

6 how the -- the -- the structure will be -- will be done

7 from that time moving forward.

8 Q. I didn't understand that. Could you repeat that,

9 please?

10 A. Trying to establish the process, not the budget.

11 Q. Well, if they weren't involved with the budget,

12 why would they be establishing a process?

13 A. Because Vitol was the one funding this.

14 Q. And that Vitol is Vitol Inc.; correct?

15 A. Yes.

16 MS. ROHN: And then if you go to 4402, Mikey.

17 In the middle, middle of the Document 4402. That's

18 not 4402. That's 4403. There you go. Scroll up a

19 little bit. All right. Sorry, at the bottom.

20 BY MS. ROHN:

21 Q. Then on March 14, 2019, Mr. Eduardo Garcia of

22 Vitol tells Mr. Tolosa and David Smith -- and at that time,

23 am I correct, in 2019 Mr. David Smith was the operations

24 manager of IPOS; correct?

25 A. Who -- David Smith, yes.

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1 or if not enough money from Vitol itself. Is that not

2 correct, sir?

3 A. I didn't follow the -- the question.

4 Q. Okay. My understanding is that there would be

5 yearly -- proposed budgets for the year of the things that

6 were thought would be done that year. Those would then be

7 quantified as to costs, and the total would then be divided

8 into 12 monthly payments for which WAPA would make monthly

9 payments but not actually pay any invoices.

10 Vitol would pay the invoices, some from the monthly

11 payments. And if not enough, then Vitol would make those

12 additional payments, and at the end of the year, there

13 would be a reconciliation. Is that not a fact, sir?

14 A. WAPA was paying -- WAPA was paying Vitol, and

15 Vitol was paying IPOS for whatever was agreed on the -- on

16 the contract provided in the operations and maintenance.

17 Is that -- is that what you were asking me?

18 Q. Well, this indicates that there were -- the

19 original e-mail -- e-mail is talking about cost overruns.

20 And those e-mails as to cost overruns are going from VTTI

21 to Vitol, are they not? Isn't that what we established?

22 A. I don't know. I don't know what was established

23 here. I don't know if what -- what are you asking exactly?

24 Q. Well, sir, isn't it a fact, sir, that -- that

25 Vitol Inc. paid invoices; and then expected to get the

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1 reimbursement from those invoices for maintenance and other
2 projects at the propane facility from WAPA?

3 A. Correct, that's what they structured.

4 Q. And, in fact, one of the issues is that there are
5 numerous invoices that Vitol claims were billed to WAPA
6 that WAPA hasn't paid. Isn't that -- isn't that a fact,
7 sir?

8 A. I don't see that fact here on this document.

9 Q. No, sir, I'm not asking about it in here. Isn't
10 that one of the whole issues about why you were going to
11 cut off propane?

12 MR. KAPLAN: Object to the form of the
13 question.

14 You may answer.

15 BY MS. ROHN:

16 A. No. Actually, no. There -- there are different
17 structures of payments. When -- the one that was more
18 critical was the product itself, the propane.

19 Q. But it is a fact, isn't it, sir, that they also
20 weren't making their maintenance payments; correct?

21 A. That's correct.

22 MR. KAPLAN: Object to the form of the
23 question.

24 You may answer.

25 BY MS. ROHN:

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1 Q. Did you say that's correct?

2 A. That's correct.

3 Q. And then if you go up some more, it's an e-mail
4 from Eduardo Garcia, which is on the next page. You'll
5 just have to trust me. Eduardo Garcia, April 11, 2019, to
6 Ignacio Tolosa, cc'd to Ms. Prendergast at Vitol and
7 David Smith.

8 "Hi David, The charge of the \$242k in March for
9 Petro Industrial, is this all maintenance related? Or are
10 these charges related to the rack as well?"

11 Can you tell me why Vitol would be involved in what
12 types of payments were being made to Petro?

13 A. Can you move a little over to see that?

14 Q. Sure.

15 A. Okay.

16 What was the question again? Sorry.

17 Q. Why would Vitol be involved in what types of work
18 is being done by Petro for the sums of money charged by
19 Petro?

20 A. Because part of this would be rebilled it was --
21 to WAPA, it was maintenance, and the rack, no.

22 Q. What? Could you say that again?

23 A. It have here \$242,000 supposed to be an invoice
24 from Petro Industrial. What is it related to?

25 Q. Well, why do you want to know whether or not it's

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1 maintenance or some other charge?

2 MR. KAPLAN: Object to the form of the
3 question.

4 You can answer.

5 BY MS. ROHN:

6 A. Because if we did maintenance, would be rebilled
7 to WAPA.

8 Q. Right, sir.

9 And if it was on the rack, that was a Vitol project,
10 and would be billed to Vitol, isn't that correct, sir?

11 A. Would be paid for Vitol.

12 Q. Okay. So in order to be paid by Vitol, wouldn't
13 it be billed to Vitol?

14 A. Not necessarily.

15 Q. Okay. So Vitol would also pay invoices that were
16 invoiced to IPOS?

17 A. The contract was with IPOS; so we cannot pay
18 invoices that not -- that added to Vitol Inc. but we don't
19 have a contract with. So, yes, we -- we can pay invoices
20 as to IPOS.

21 Q. Okay, I didn't understand.

22 So in other words, you're saying that in order --
23 you're claiming under oath that in order for Vitol to pay
24 Petro, the invoice had to go to IPOS, and then Vitol would
25 pay it?

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1 A. No, I didn't say that.

2 Q. Okay. Please tell me again, 'cause I didn't
3 follow that.

4 A. In order for you to pay an invoice, a contractual
5 link --

6 Q. A what? Contractual what?

7 A. Link.

8 Q. Link?

9 A. It would be a contract.

10 Q. Okay. Could you say that again?

11 A. If someone invoiced someone on -- what was the
12 purpose? The purpose of that invoice is because there is a
13 contract, an agreement. And there was an agreement, but
14 there is no agreement with Petro Industrial. Our agreement
15 was with IPOS. Our contract was with IPOS.

16 Q. And you're saying Vitol Inc.'s contract was with
17 IPOS?

18 A. Yes.

19 MS. ROHN: And then if you go to 4401, the
20 bottom. At the bottom.

21 BY MS. ROHN:

22 Q. Then there's an e-mail from David Smith to
23 Eduardo Garcia of Vitol and Laura of Vitol.

24 "Eduardo, They are all maintenance related. The truck
25 rack has only been the initial pre-payment that you had

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1 previously funded."

2 So indeed Vitol had previously paid the initial
3 pre-payment for the rack; correct?

4 A. That's -- that's what the document said.

5 Q. Okay. And then if you go up, this is where you
6 come into this document.

7 This is from Edward Garcia from Vitol to David Smith,
8 Andrew Canning, Tim K., and yourself, Sebastian Moretti;
9 correct?

10 A. Correct.

11 Q. "Subject: IPOS Budget July 2017-June 2017 versus
12 actual."

13 See that as the subject line?

14 A. Yep.

15 Q. And Eduardo Garcia of Vitol is telling
16 David Smith of IPOS, correct, "Please be advised we will
17 need to limit the maintenance activities to critical items
18 only for the remainder of this budget year. Once we
19 receive from IPOS the maintenance plan/activities and
20 related budget for the coming July 19 to --" July --
21 "June 20 budget year we can discuss with WAPA to make sure
22 they ok the plan and budget."

23 You see that?

24 A. I see that.

25 Q. So Vitol had the ability to tell IPOS what items

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1 they could engage in or not, correct, sir?

2 A. No.

3 Q. Is not this Vitol from -- through Mr. Garcia
4 saying to IPOS to David Smith, "Please be advised we will
5 need to limit the maintenance activities to critical
6 items"? Isn't that what Mr. Garcia from Vitol is telling
7 IPOS?

8 A. We -- we should ask Eduardo Garcia what is --

9 Q. No, sir. Sir, you're on this e-mail. Did you
10 send an e-mail and say wait, wait, none of this correct?

11 A. No, I didn't. Did I?

12 Q. If you go to the top, where you are also on the
13 e-mail, April 22, 2019, same subject line, same recipients.

14 "Thank you, Eduardo." This is from David Smith of
15 IPOS. "This is very clear. We will notify Petro at the
16 end of the day that will bring them onsite -- we will
17 notify Petro at the end of the day that will bring them
18 onsite for critical maintenance only."

19 So you're telling -- Vitol told IPOS stop it, and then
20 as response -- as a result of the direction by IPO --
21 sorry, by Vitol, IPOS then told Petro to stop anything but
22 critical maintenance, correct, sir?

23 MR. KAPLAN: Object to the form of the
24 question.

25 You may answer.

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1 BY MS. ROHN:

2 A. That's what Eduardo Garcia seems to -- to say.
3 They are not all going to expend other than what is for
4 critical maintenance only.

5 MS. ROHN: Now if we can go to that document
6 in that same 81, IPOS 4409 to 410.

7 MR. KAPLAN: Please repeat the Bates number
8 for me.

9 MS. ROHN: Sure. 4409 to 410.

10 If you go to the second page, 4410.

11 (Off the record.)

12 MS. ROHN: I'm -- he's going to scan in a
13 document that's not in the --

14 (Off the record.)

15 MS. ROHN: Go to the second page, please.

16 BY MS. ROHN:

17 Q. There's an e-mail from David Smith, dated
18 May 8, 2019, to Eduardo Garcia. You are -- it says to
19 Eduardo Garcia, and yourself, Mr. Moretti. Do you see
20 that?

21 A. Yes.

22 Q. And also to Tim K.

23 Did Charlotte take over Eduardo Garcia's position?

24 A. No.

25 Q. Okay. Was Charlotte employed in 2019 in the

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1 present position she's in now?

2 A. Under -- as operations -- sorry. As the physical
3 operator, yes. I don't recall about 2019 which desk she
4 was.

5 Q. Okay. And this is cc'd to Andrew Canning. And
6 David Smith is telling you and Mr. Eduardo, "Here's a
7 summary that Andrew put together. It's through November,
8 but that is where the largest overrun was.

9 "Andrew went through the individual time sheets.

10 "We have already had meetings about better tracking
11 going forward.

12 "Please let us know if you have any questions.

13 "Andrew is still working on the maintenance plan."

14 So was it Andrew who did the -- Canning who did the
15 maintenance plan?

16 A. Andrew was participating on the -- on the
17 maintenance plan. It was just IPOS' responsibility.

18 Q. And why were you getting documents showing where
19 the largest overruns were?

20 A. Again, I'm -- I'm the operations manager, and I
21 supposed to know certain things.

22 Q. And overruns on the budget is one of them, is
23 that correct, sir?

24 A. Yes.

25 MS. ROHN: If you go to the first page.

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1 BY MS. ROHN:

2 Q. This is Edward Garcia responding to David Smith
3 of IPOS, and including you.

4 "David, How did you reconcile the spreadsheets
5 prepared by Andrew with these actual expenditures for M&R
6 from IPOS actuals to date report? The numbers are not even
7 close. The actuals report shows IPOS has spent \$2,241,666
8 in M&R so far. How can Vitol justify this figure with
9 WAPA?"

10 First of all, is M&R -- what is M&R?

11 A. Maintenance and repairs.

12 Q. And why would you be copied on this?

13 A. I'm the operations manager of Vitol Inc.

14 Q. All right. And then at the top of this it says
15 your -- David Smith of IPOS responds to you and Eduardo and
16 Tim K.

17 "This doesn't reconcile. Perhaps I was mistaken, but
18 all of the e-mails and conversations were about Petro and
19 their costs, so that is where Andrew was focused.

20 "We have sent all the invoices for IPOS, we sent the
21 list of the maintenance projects that are listed every
22 quarter and --" tied "-- tried to create something you can
23 use in your discussions.

24 "As mentioned, we don't have individual wo/po's for
25 each specific job done by Petro."

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1 Why were you involved in how much Petro was billing?

2 A. No, it wasn't about Petro. It was about the
3 budget in general.

4 Q. The what?

5 A. It wasn't about Petro specifically. It was about
6 the situation in general and the -- and the budget in
7 general, the moneys spent in general. At the end --

8 Q. I'm sorry.

9 WO/POs, is that work orders/purchase orders?

10 A. Where is that? Sorry.

11 Q. It says "As we mentioned, we don't have
12 individual wo/po's for each specific job done by Petro."
13 Is that work orders or purchase orders?

14 A. Yes.

15 Q. Next out of Exhibit 81, I think, is IPOS 748.

16 This is a e-mail from David Smith to Eduardo Garcia,
17 dated June 3, 2019.

18 MS. ROHN: Scroll to 753, please.

19 There you go. If you'll go back up then.

20 BY MS. ROHN:

21 Q. Starts out June 3rd at 1:27 from David Smith,
22 IPOS, to Vitol. "Please find attached the information
23 requested.

24 "Andrew and Coury continue to refine."

25 MS. ROHN: Then if you go up.

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1 BY MS. ROHN:

2 Q. It says from Vitol, Mr. Garcia, to David Smith of
3 IPOS. "Thank you David for sending this information.

4 "Where can I find the budget associated with the
5 maintenance plan IPOS is proposing?"

6 So, indeed, Vitol was involved in reviewing the
7 budgets of IPOS; correct?

8 A. Vitol was the one communicating to WAPA, so need
9 to be aware of what we communicated to WAPA.

10 MS. ROHN: If you go to the next page, 752,
11 the bottom.

12 BY MS. ROHN:

13 Q. June 3, 2019, 2:32, David Smith, IPOS, to Vitol.

14 "The proposed budget hasn't changed from what Coury
15 initially put together. Andrew's work is more of a true
16 plan and he is continuing to refine the costs associated.

17 "This morning Petro sent a yearly contract proposal
18 that reduced the cost some. It's about 20% on full-time
19 labor. Call-out and specialty craft would not have the
20 contract labor. We haven't been able to cost it out, but
21 we'll save.

22 "Let me know if you have any additional questions."

23 Why would IPOS be discussing Petro's contract with
24 Vitol?

25 A. I was -- I was on a different -- different page.

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1 This is an e-mail that you -- you were reading?

2 MS. ROHN: 752. 752.

3 MS. FRANCIS: What you were reading,
4 Attorney Rohn, was not on the screen; so the
5 witness --

6 MS. ROHN: No worries.

7 752. Okay, go to the bottom of that page. There
8 we go.

9 BY MS. ROHN:

10 Q. Can you read that, sir?

11 My question is: Why would IPOS be discussing Petro's
12 contract and how much it would be to Vitol?

13 MR. KAPLAN: Object to the form of the
14 question.

15 You can answer.

16 BY MS. ROHN:

17 A. It was part of the budget that Vitol need to
18 discuss with WAPA.

19 Q. And there is -- if you go to 751, there's some
20 discussions about discussing this with WAPA. And at the
21 top of that page, 751, top of the page. On June 21, 2019,
22 David Smith includes yourself.

23 Do you see that in this chain?

24 A. I think it's down.

25 Q. It's at the very top.

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1 MS. ROHN: It's at the very top. Very top,
 2 Michael.
 3 A. Okay.
 4 MS. ROHN: 751. You see right there? Yes.
 5 BY MS. ROHN:
 6 Q. "IPOS Maintenance Plan and Budget."
 7 A. Yes.
 8 Q. You see that you're copied on that?
 9 And then -- that's all I have for that document.
 10 MS. ROHN: 3698. IPOS 3698.
 11 MR. KAPLAN: Is that the same exhibit, 81A?
 12 MS. ROHN: Yes, 81.
 13 BY MS. ROHN:
 14 Q. On 3698 at the bottom is an e-mail from yourself,
 15 correct, sir?
 16 A. That's correct.
 17 Q. Okay. To IPOS. "Subject: Andrew Canning
 18 contract with Vitol."
 19 In 2020 did Andrew Canning have a contract with Vitol
 20 or a contract with IPOS?
 21 A. At that time I -- because of this e-mail, was
 22 still with IPOS.
 23 Q. Okay. So you say "Hi David and Happy Holiday!
 24 We are working on Andrew's contract and we would like to
 25 add Appendix 4 & 5 but both needs to be modified from VTTI

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1 A. He needed -- he needed an insurance to -- to work
 2 for any company.
 3 MS. ROHN: And if you can go to Bates-stamped
 4 3349.
 5 BY MS. ROHN:
 6 Q. 3349, if you go up, there's an -- in response --
 7 MS. ROHN: Just go up a little bit.
 8 BY MS. ROHN:
 9 Q. There's a response from David Smith to you that
 10 says "Seba, Just to be clear, do you want a copy of the
 11 Online insurance or what our requirements are?"
 12 And then you answer --
 13 MS. ROHN: Scroll up.
 14 BY MS. ROHN:
 15 Q. "A copy of what he currently has so -- so can be
 16 reviewed by our insurance specialist.
 17 "Your requirements are the one in the contract,
 18 right?"
 19 When you say "our insurance specialist," is that
 20 Vitol's insurance specialist?
 21 A. That's correct.
 22 Q. And that --
 23 MS. ROHN: And then if you scroll up.
 24 BY MS. ROHN:
 25 Q. David Smith says, "I think that Andrew and

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1 to Vitol. Do you have a word format? Also can you please
 2 facilitate Andrew's current insurance policy.
 3 "Thanks a lot, Seba."
 4 Is that a nickname for you?
 5 A. Short for Sebastian.
 6 Q. Okay.
 7 So, sir, why were you, of Vitol, working on Andrew's
 8 contract with IPOS?
 9 A. It was at the time that we were switching from
 10 IPOS to Vitol.
 11 Q. So you said he was still working for IPOS, did
 12 you not, sir, under oath?
 13 A. Still working for IPOS, we were -- we work for
 14 Vitol. At this time, because of this e-mail, was working
 15 for IPOS.
 16 Q. And you were deciding what appendixes to add,
 17 sir; correct?
 18 A. Say it again.
 19 Q. And you were deciding what appendixes to add,
 20 correct, sir?
 21 (Interruption by the court reporter.)
 22 MS. ROHN: He said that's what it says.
 23 BY MS. ROHN:
 24 Q. And why would Vitol be asking IPOS to facilitate
 25 Andrew's current insurance policy?

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1 Eduardo had a discussion about it. But this is what IPOS
 2 currently uses.
 3 "And I'm attaching Petro's as an example as well."
 4 Eduardo wouldn't be working for Vitol, correct --
 5 Vitol; correct?
 6 A. Correct.
 7 MS. ROHN: Bates No. 4589.
 8 You got that one? You're good. You are good.
 9 BY MS. ROHN:
 10 Q. This is a series of e-mails starting in May.
 11 MS. ROHN: If you go to 4597. Oops, sorry.
 12 Hold on. Sorry. If you go to 4591. You got that?
 13 If you scroll to the bottom 459 -- I'm sorry,
 14 4590. You're right, 4591.
 15 BY MS. ROHN:
 16 Q. So there's an e-mail, starts on page 4590 from
 17 Merlin Figueira to Eduardo Garcia, Charlotte.
 18 MS. ROHN: And that's the bottom of page
 19 4590. There you go.
 20 BY MS. ROHN:
 21 Q. And yourself, Sebastian.
 22 "Outage update. Lady and Gents, On behalf of the team
 23 I'd like to give you an update on the outage. At the end
 24 of today we have," and then there's a list of what has been
 25 done.

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1 "We reached the desired milestone yesterday and today.
2 Now our milestone for tomorrow is the following." Listing
3 what is to be done.

4 "We have a tailgate Safety Meeting each morning at
5 7 a.m. and an update meeting at 3 p.m. Our team as well as
6 the Contractor attend the Safety Meeting. In addition we
7 invited the Preventive Maintenance Manager at WAPA for
8 these meetings and he has attended.

9 "Barring any surprises we believe we are on track to
10 restart as scheduled at the end of Monday, September 7th."

11 Why would IPOS be telling Vitol these detailed
12 statements about what work is being done by IPOS?

13 MR. KAPLAN: Object to the form of the
14 question.

15 You may answer.

16 MS. ROHN: Huh? I didn't hear that.

17 MR. KAPLAN: I objected to the form and told
18 the witness he may answer.

19 BY MS. ROHN:

20 A. Because this was related to -- if you go to the
21 subject, this is -- was in the first e-mail.

22 There's -- there's an e-mail before this one.

23 Q. This is the first e-mail in the chain.

24 A. So as per the subject, "outage update," the -- I
25 don't recall the situation exactly, but probably was an

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1 interruption of supply to WAPA.

2 MS. ROHN: All right. And then if you go to
3 the top of 4589. Okay.

4 BY MS. ROHN:

5 Q. There's from Merlin Figueira, 9 -- September 8th.

6 You're included in this, along with David Smith,
7 Andrew Canning. And it Mr. Figueira says to Eduardo of
8 Vitol, "It was indeed a Team effort; Alex managed the Ops
9 side of the outage, Calvin the maintenance side, Andrew and
10 David Nagle on the engineering inputs and then the
11 dedication by our Contract, Petro. We couldn't have done
12 this safely and on schedule without the entire team pulling
13 together."

14 Why would that information be going to Vitol?

15 A. Letting us know about the job well done.

16 Q. So it's your testimony, sir, under oath that
17 Vitol wasn't overseeing the maintenance operations of IPOS?
18 Is that right, sir?

19 A. Correct.

20 Q. Huh?

21 A. That's correct.

22 MS. ROHN: Let's go to -- I think this is 81
23 again. IPOS 6739.

24 MS. FRANCIS: I'm sorry. What was that Bates
25 number?

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1 MS. ROHN: 6739. Up one.

2 Actually, you can start at 6738.

3 BY MS. ROHN:

4 Q. This is an e-mail that starts February 24, 2021,
5 at 7:33 p.m. from Charlotte to Tim K. and Adrian Melendez
6 and also to IPOS.

7 So why would Vitol be sending Adrian Melendez from
8 Petro e-mails?

9 MR. KAPLAN: Object to the form of the
10 question.

11 You may answer.

12 BY MS. ROHN:

13 A. What's -- I can't read the whole e-mail.

14 Q. Okay. Well, it starts out the very bottom from
15 Mr. Figueira.

16 MS. ROHN: Are you on 6738?

17 BY MS. ROHN:

18 Q. Very bottom, see that, from Mr. Figueira to
19 Tim K. "We will have the documents listed for your files
20 and for onward transfer to WAPA."

21 And then Charlotte says to Mr. Figueira and to Tim K.
22 and Adrian Melendez as to the "Vent Piping Project WAPA
23 Deliverables.

24 "Merlin - Sebastian is requiring the following before
25 starting work because we need to pass them to WAPA. Can

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1 you get them before Monday?"

2 No. 1. "Support for the pipe replacement which
3 confirms that it will meet or exceed requirements for
4 operation."

5 2. "Demolition of LO/TO and P&ID markups."

6 Do you see that?

7 A. Yes.

8 Q. Okay. So why were you requesting this before
9 work could start by Petro?

10 A. Basically, every project need to be properly
11 documented --

12 Q. I couldn't understand that.

13 A. Every -- every project need to be properly
14 documented before starting.

15 Q. But, sir, when I asked you asked earlier if Vitol
16 requested -- required certain documentation on the IPOS
17 projects, you told me under oath no.

18 Isn't this you requiring certain documents, sir?

19 MR. KAPLAN: Object to the form of the
20 question.

21 You may answer.

22 BY MS. ROHN:

23 A. These documents were requested for -- to pass to
24 WAPA on their project. WAPA was require -- requiring the
25 -- the documents to us. We were requiring the documents to

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1 the next one.

2 Q. So why would you be telling that to -- why would
3 you be telling that maybe to IPOS, but why would you be
4 telling that to Petro?

5 A. 'Cause my contract was with IPOS.

6 Q. But you're telling it to Petro.

7 Why would you be doing that, sir?

8 A. I'm not telling Petro anything.

9 Q. He's on the e-mail.

10 MR. KAPLAN: Object to the statement.

11 BY MS. ROHN:

12 A. It wasn't --

13 MR. KAPLAN: Wait for a question.

14 BY MS. ROHN:

15 Q. What is LO/TO and P&ID markups?

16 A. I don't know what the LO/TO is.

17 Q. What is a P&ID markup?

18 A. I don't know.

19 Q. And then there's a e-mail, if you scroll up, from
20 Merlin, "Let me know what I can gather by tomorrow. I'm
21 leaving."

22 And then -- then if you scroll up, there's an answer
23 from Adrian Melendez. "Merlin, I can help out with the
24 support for the replacement of the pipes including the
25 inspection reports."

82

1 Q. Well, you think Tim is the kind of person, from
2 working with him, that he would say something in e-mail
3 that's not true?

4 A. No. He may be talking with Merlin, not both of
5 them.

6 Q. Well, the mail is to -- the e-mail is to

7 Merlin/Adrian; right?

8 A. That's a question for Tim K.

9 Q. Well, doesn't that what it says on the document,
10 sir?

11 A. "Per our conversation on Tuesday we will be
12 providing," yes.

13 Q. So if Vitol Inc. wasn't involved in obtaining
14 documentation related to the work being done by IPOS, why
15 is Tim K. having conversations with Adrian and sending
16 e-mails to Adrian as to what documentation is needed?

17 MR. KAPLAN: Object to the form of the
18 question.

19 You may answer.

20 BY MS. ROHN:

21 A. It seems to be a request from WAPA.

22 Q. WAPA is not sending this e-mail, is it, sir?

23 A. No. But Tim wouldn't -- wouldn't been asking for
24 something that he -- just for the purpose of asking. WAPA
25 for sure asked us for these documents.

81

1 And he sends that -- oh, he doesn't send that to you.

2 I lied.

3 If you go to the next page, there is an e-mail --

4 MS. ROHN: 6739. No, the next page, 6739.

5 Sorry.

6 Okay. Is that -- are we on 6739?

7 BY MS. ROHN:

8 Q. There's an e-mail from Tim K., February 24th, to
9 Merlin and Adrian Melendez copying Charlotte, same Vent
10 Piping Project.

11 "Merlin/Adrian, per our conversation on Tuesday, we
12 will be providing WAPA with all job book documentation for
13 this project. This includes the engineering/design/scope/
14 construction documentation for them to review - and after
15 completion for their records as this work is being done on
16 their property.

17 "Can you please send over the following."

18 So first of all, Tom -- Tim K. has admitted in this
19 e-mail that he had a conversation on Tuesday with Petro,
20 Adrian; correct?

21 MR. KAPLAN: Object to the form of the
22 question.

23 You can answer.

24 BY MS. ROHN:

25 A. I don't know.

83

1 Q. So, sir, the contract between WAPA is actually
2 with Vitol Virgin Islands, is it not, sir?

3 A. I don't have that document in front of me, but I
4 -- I think so.

5 Q. Okay. So why would WAPA be talking to
6 Vitol Inc.?

7 MR. KAPLAN: Object to the form of the
8 question.

9 You may answer.

10 BY MS. ROHN:

11 A. Because exactly that reason, that the -- the
12 contract is between WAPA and Vitol.

13 Q. So, again, Vitol is Vitol Virgin Islands and
14 Vitol Inc.?

15 MR. KAPLAN: Object to the form of the
16 question.

17 You may answer.

18 BY MS. ROHN:

19 A. I don't have the document in front of me. I
20 don't -- I don't know which company exactly.

21 Q. Well, sir, do you treat those two companies as --
22 as one?

23 MR. KAPLAN: Objection to the form.

24 You may answer.

25 BY MS. ROHN:

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1 A. Both are totally different legal entities.
 2 Q. They're what?
 3 A. Both of the companies are totally legal different
 4 entities.
 5 Q. But isn't it true, sir, that Vitol Virgin Islands
 6 has no employees?
 7 MR. KAPLAN: Objection. Asked and answered.
 8 You may answer again.
 9 BY MS. ROHN:
 10 A. That's correct.
 11 Q. And so -- so this is a request for various
 12 documentations for the job; correct? And being
 13 communicated between Vitol, from Tim K., and IPOS and
 14 Petro; correct?
 15 A. Correct.
 16 MS. ROHN: If we go to 4856.
 17 THE WITNESS: Can we have a five minutes
 18 break?
 19 MS. ROHN: Oh, absolutely, sir. Let's take a
 20 break.
 21 (A recess was taken at this time.)
 22 MS. ROHN: If you go to 4850?
 23 MR. KAPLAN: I'm sorry. You're in the same
 24 Exhibit 81. What the Bates number?
 25 MS. ROHN: Yeah, but we're gonna -- well

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1 because -- yes, we're going to another part of it.
 2 MR. KAPLAN: That's fine. Can you tell the
 3 number, document number?
 4 MS. ROHN: That's because it's -- that one is
 5 the number 600. But the way these documents have been
 6 produced by IPOS, the end of that chain is No. 4850.
 7 MR. KAPLAN: Okay. Thank you.
 8 BY MS. ROHN:
 9 Q. All right. If you scroll up, this 4850 is the
 10 same as 6739.
 11 And then if you scroll up, 4851. If you go to 4852,
 12 it's the same e-mail again. Then the same e-mail about
 13 "Merlin I can help out" on 4852.
 14 4853, it's the same e-mail we did before. And then if
 15 you go to 4855, there is the same e-mail on the top -- at
 16 the top of that page Merlin says in response to Adrian
 17 saying he can help with -- for the replacements of the
 18 pipes.
 19 "Okay, Adrian, let's discuss tomorrow to see what we
 20 have what is requested. I may need your drawing that
 21 shows the existing lines to show what is going to be
 22 demolished."
 23 And Adrian says to Merlin, that he's going to be on a
 24 flight "but I will call you in between my layover and see
 25 if I can figure something out."

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1 MS. ROHN: And then if you go to the 45 --
 2 856. We have the same request for documents.
 3 BY MS. ROHN:
 4 Q. "Per our conservation we will providing WAPA
 5 the --
 6 MS. ROHN: 4856.
 7 BY MS. ROHN:
 8 Q. See where it says, again, the same e-mail, "Per
 9 our conversation on Tuesday, we will be providing WAPA with
 10 all the job book documentation."
 11 Sir, have you ever seen -- well, let me see. In the
 12 outage job that we referred to earlier where there was an
 13 outage, and you guys were talking to IPOS, were there --
 14 were the same types of documents required for that outage
 15 job as to the welding?
 16 MR. KAPLAN: Object to the form of the
 17 question.
 18 You may answer.
 19 BY MS. ROHN:
 20 A. I don't know. I don't know what --
 21 Q. I beg your pardon?
 22 A. I don't know what document will be.
 23 Q. Well, these documents that are referred to in
 24 this e-mail, the job book, was that required on every job
 25 where there was welding?

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1 A. It's required on any job.
 2 Q. Oh. So is it your testimony on behalf -- is it
 3 your testimony that on every job there should have been a
 4 job book?
 5 A. Every construction job in general, anything has
 6 -- has engineering book.
 7 Q. Do you know if whether before the 3-inch vent
 8 piping project there had ever been a job book?
 9 A. No, I don't know.
 10 Q. Well, if it would be required on every job,
 11 should there have been a job book?
 12 A. Yes.
 13 Q. Do you know of this decision to have a job book
 14 on the 3-inch vent line was a requirement that was put in
 15 place by Vitol?
 16 A. No. That's a standard industry -- industry
 17 standard. Sorry.
 18 Q. Okay. But if there had not been job books on
 19 other projects, was this Vitol now deciding that there were
 20 going to be job books?
 21 MR. KAPLAN: Form objection.
 22 You may answer.
 23 BY MS. ROHN:
 24 A. There are books required on every job that I've
 25 been involved or overseen or hear about it.

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1 Q. So IPRS -- IPOS, should have a job book for every
2 job they did at the propane facility; correct?

3 MS. FRANCIS: Objection.

4 BY MS. ROHN:

5 Q. Is that a shaking your head yes, sir?

6 A. That's a yes.

7 Q. Okay. And that job book should have been given
8 to WAPA on every job that IPOS did, is that correct, sir?

9 MS. FRANCIS: Objection. Foundation.

10 BY MS. ROHN:

11 Q. You may answer.

12 A. If the project was in WAPA facilities, yes.

13 Q. And if IPOS did jobs for Vitol, should there have
14 been a job book that was given to Vitol?

15 A. Say it again. Sorry.

16 Q. If IPOS did a job for Vitol, should IPOS have had
17 a job book given to Vitol?

18 A. It's the -- the book is to -- to remain within
19 the facilities.

20 MS. ROHN: 4863. Starts with 4864.

21 BY MS. ROHN:

22 Q. 4864, you see this is a continuation from Tim to
23 Charlotte, Merlin, Adrian, cc'd to Andrew Canning,
24 yourself, and David Smith, same vent piping program.

25 MS. FRANCIS: Attorney Rohn, what you're

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1 reading is not on the screen. Can you give --

2 MS. ROHN: 4864, please. You need to go up or
3 maybe down. I don't know.

4 Okay. There we go. Scroll down. That's perfect
5 right there.

6 BY MS. ROHN:

7 Q. February 25th, 10:50, a.m., Tim, from Vitol, to
8 Charlotte at Vitol, Merlin at IPOS, Adrian from Petro, cc'd
9 to Andrew Canning, and yourself, and David Smith.

10 And by that time David Smith was working for VTTI;
11 correct?

12 MS. FRANCIS: Objection.

13 BY MS. ROHN:

14 Q. Is that correct, sir?

15 A. David Smith was working -- yes.

16 Q. Yes. Okay.

17 "Adrian --" this is written from Vitol to Adrian;
18 correct?

19 "-- Attached is a purchase order along with the quote
20 documentation.

21 "Please ensure your invoices have both the purchase
22 order and requisition number on them when sent to us. This
23 is located in the attached PO for the reference down
24 below."

25 You see that, sir?

90

1 A. Yes.

2 Q. And then it gives a PO number and a recognition
3 -- requisition number.

4 Why would Mr. Adrian Melendez of Petro be sending
5 purchase orders and requisition orders to Vitol?

6 A. To be review.

7 Q. Excuse me?

8 A. To be review.

9 Q. Why would Vitol be reviewing something that's
10 been contracted through IPOS?

11 A. We were supporting IPOS.

12 Q. Well, why was Vitol providing Petro with a
13 purchase order?

14 A. I -- I don't -- I don't see -- I don't know
15 what's the document there.

16 Q. Well, it says "Adrian, Attached is the purchase
17 order along with the quote documentation."

18 A. To facilitate the process.

19 Q. Excuse me? Say that again.

20 A. To facilitate the process.

21 Q. To dictate the process, is that what you said?

22 A. Facilitate.

23 MS. FRANCIS: Facilitate.

24 BY MS. ROHN:

25 Q. Oh, facilitate. Sorry.

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1 Okay. And then if you go to 4863, there is on
2 February 26th, at the bottom, from Charlotte at Vitol to
3 Adrian Melendez, cc Andrew Canning and yourself.

4 "Hi Adrian - I received your revised budget from Tim.
5 Thank you.

6 "We will need an itemized breakdown of why the cost
7 has changed from 187,000 and change to 194,000 and change
8 for WAPA. We already gave them your original quote for
9 their approval. Now you are stating that this project will
10 cost more despite the original quote stating that it was
11 not to exceed quote. I see from your e-mail that
12 additional cost was due to an effort to minimize downtime
13 but you will need to be more specific.

14 "I would like to see the below -- see the below format
15 for the original quote."

16 Why is Vitol talking to Petro about how to document
17 its billing?

18 MR. KAPLAN: Object to the form of the
19 question.

20 You may answer.

21 BY MS. ROHN:

22 A. We need to give WAPA the, as they say there,
23 revised budget, and this specific topic was with -- with
24 Petro.

25 MS. ROHN: 4845.

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1 4843. Wait. Wait.
 2 Okay, 4 -- 4874. You got it?
 3 4874. I need 4874.
 4 BY MS. ROHN:
 5 Q. This is a document, March 29, 2021, from
 6 Charlotte of Vitol to Figueira and Adrian Melendez, and
 7 various people from WAPA and copied to you.
 8 "Merlin/Adrian, I want to introduce you to
 9 Matthias Clarke, he will be the WAPA representative
 10 overseeing the vent line replacement project for WAPA.
 11 Please liaise with him and answer all --" I think he means
 12 his. -- "questions timely and thoroughly (copying Vitol
 13 and Andrew."
 14 "At the moment he would like the manufacturer material
 15 data sheets for the replacement of piping procured for use.
 16 "Matthias - please let us know --"
 17 Why would Vitol be doing that interim -- being an
 18 intermediary between WAPA and IPOS, instead of WAPA going
 19 directly to IPOS?
 20 A. Because we have a contract with WAPA.
 21 Q. And then in response above, Adrian Melendez says,
 22 "Good afternoon Charlotte & Matthias, Please find the
 23 attached MTR for replacement S 3 pipe. Let me know if you
 24 have any questions."
 25 Right? So Charlotte is asking Petro directly for

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1 MS. FRANCIS: Just to be clear, these are
 2 plaintiff's exhibits not IPOS' exhibits.
 3 MS. ROHN: The Bates numbers on these are
 4 IPOS.
 5 MS. FRANCIS: No, I understand that, but you
 6 said IPOS exhibit, and I just wanted the record to be
 7 clear that you're referring to your exhibits.
 8 MS. ROHN: Oh. Sorry.
 9 No, they have IPOS on them. They're not my
 10 exhibits. They're IPOS' Bates numbers.
 11 MS. FRANCIS: We don't need to argue. These
 12 are the exhibits your office circulated for
 13 depositions.
 14 MS. ROHN: They're the production by IPOS.
 15 2408.
 16 BY MS. ROHN:
 17 Q. 2408 IPOS --
 18 MS. ROHN: If you scroll to the bottom.
 19 BY MS. ROHN:
 20 Q. There's an e-mail from Andrew Canning to IPOS and
 21 David Smith.
 22 "Merlin, Given the sensitivities on my direct
 23 communication with Petro, the recent communication
 24 requesting data from WAPA and also to meet the project
 25 Piping Welding Specifications, could you ask Adrian to

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1 information; correct?
 2 A. Can I read the previous e-mail, please?
 3 Q. Sure.
 4 MS. ROHN: Can you scroll down, Mickey.
 5 BY MS. ROHN:
 6 A. Yes.
 7 Q. And Adrian is then providing Vitol and WAPA with
 8 a copy of the material sheets the same day they're asked
 9 for; correct?
 10 A. Yes.
 11 MS. ROHN: Exhibit 68. IPOS 68.
 12 (IPOS' First Supplemental Response to Plaintiff's
 13 Second Request for Production of Documents was
 14 previously marked as Exhibit 68 for identification.)
 15 MS. ROHN: 23 -- 23 -- sorry. 2396. Oops.
 16 23 -- yeah, looks like 2396 -- nope, 2397. Sorry.
 17 Got that? 2397 in Exhibit 68.
 18 MR. KAPLAN: Did you say Exhibit 68, 2397?
 19 MS. ROHN: Yes.
 20 2396.
 21 All right, go to Exhibit 66, IPOS Exhibit 66 at
 22 2020.
 23 (IPOS' First Supplemental Response to Plaintiff's
 24 First Set of Interrogatories was previously marked as
 25 Exhibit 66 for identification.)

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1 provide the following information, please."
 2 Were you aware of the fact that by July of 2021 that
 3 Canning was not speaking to Adrian of Petro?
 4 MR. KAPLAN: Object to the form of the
 5 question.
 6 You may answer.
 7 BY MS. ROHN:
 8 A. No, I didn't know.
 9 MS. ROHN: 1984.
 10 1987.
 11 If you could go to 1988. 1988.
 12 BY MS. ROHN:
 13 Q. So if you go to the bottom of this 1988, this is
 14 -- has to do with the suspected anomaly of the welding
 15 documentation.
 16 MR. SIMPSON: Objection.
 17 BY MS. ROHN:
 18 Q. And there is an e-mail on July 22nd from
 19 David Smith to -- and David Smith worked for VTTI by then.
 20 -- to Merlin, Andrew Canning, and Terence Keogh, I guess.
 21 "Hi Everyone, Chad from Petro called me. They want me
 22 to join a call with the person who conducted the welding
 23 tests, lab tests. He apparently arrived from Japan last
 24 night.
 25 "Chad says that he conducted all the tests in

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1 Puerto Rico on all of these welders. He's available today
2 after 1:30. I am not available until at least 4:00. I
3 think we definitely need Andrew as he knows our
4 requirements. Chad said that we would expect -- said what
5 we would expect, none of the defects failed.

6 "I don't know the best way to approach? I don't know
7 availability. Can just push until tomorrow."

8 Were you aware that Petro had offered to provide a
9 conference call with Guillermo Castro, the man who had done
10 the welding test?

11 MR. KAPLAN: Object to the form of the
12 question.

13 You may answer.

14 BY MS. ROHN:

15 A. No idea, no.

16 Q. And then Andrew -- if you scroll up,
17 Andreas Constantinou asks, which says "Re: Petro/Guillermo
18 Castro.

19 "Do we have records of the tests?"

20 And then Andrew Canning responds, "No test records
21 have been supplied."

22 And then Constantinou says "Before any meeting with
23 them I would propose first seeing these records."

24 And then Andrew Canning, if you scroll up, says
25 "Previous operations welder qualifications records will

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1 also include photographic records of the test samples, is
2 this normal in the US? Our welding procedures also call
3 for the welders to have photographic ID cards showing
4 welding certifications, I have never seen this from PIS
5 with the exception of Daniel Martinez who was formally
6 trained and assessed at a welding facility. This should
7 all be part of the qualification record issued to the
8 client before the fabrication work starts.

9 "We should also have proof of ID from Guillermo Castro
10 including his claimed NDT qualifications."

11 Were you aware that Mr. -- at the time this was going
12 on, that Mr. Canning wasn't sure what were the requirements
13 for welding certifications?

14 MR. KAPLAN: Object to the form of the
15 question.

16 You may answer.

17 BY MS. ROHN:

18 A. No, I wasn't.

19 Q. And then if you go to the next page or actually
20 the top of this page, this is from David Smith.

21 "I was even thinking one more step that we approach
22 Acuren rather than Guillermo and ask them to certify in
23 writing?"

24 And then David Smith says again, if you go to page 119
25 -- 1987, "I have another contractor here onsite and he

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1 recommends Richard Holdren." Gives some qualifications.

2 And then if you scroll up, David Smith says "Just to
3 keep the conversation going. I spoke to Chad and asked him
4 in writing for the test results. He told me that the lab
5 test was Phased array, which is by the test was PAUT...
6 which is why it was not bend test.

7 "That all folks were from Puerto Rico and they were
8 certified while they were there.

9 "That he is a 3rd party to Acuren and that is why it
10 says that.

11 "I did tell him someone on his side is talking about
12 what is going on and he needs to seal it up."

13 Do you know what Mr. Smith is talking about about
14 sealing it up?

15 A. No, I don't know.

16 Q. Then it says that "Out of respect, we did not
17 tell our own employees including Supervisors, yet everyone
18 knows the story now.

19 "I'll let you know more as I can. Chad didn't want to
20 speak for Guillermo, but his knowledge is much higher than
21 mine in welding. I need help on the right information."

22 You understand this to be part of the investigation
23 into Petro and whether or not there were anomalies in the
24 welding certifications?

25 A. If I was what? Sorry. What's the first part of

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1 the question?

2 Q. Were you aware that there was an investigation
3 going on by IPOS as to whether or not there was an anomaly
4 in Petro's welding certifications?

5 A. No, I wasn't aware.

6 Q. And then David Smith says -- Constantinou -- if
7 you go up. Constantinou responds to David Smith about
8 needing more information.

9 "David, I am preparing an e-mail to you with all the
10 required information we need from the contractor, which is
11 on the basis of an ASME job. They need to give us this
12 documentation in full. I will forward it to you."

13 And then, if you scroll up, Constantinou on
14 July 2, 2021, sends to David Smith the documentation that
15 he believes, if were an AMSE job, would be required. Do
16 you see that?

17 Do you see that, sir?

18 A. (Nodding.)

19 MS. ROHN: Scroll down, and scroll to the next
20 page.

21 BY MS. ROHN:

22 Q. Sir, do you know whether or not this information
23 sent by Constantinou -- Constantinou was ever requested of
24 Mr. Adrian Melendez or Petro at the beginning of the job?

25 MR. SIMPSON: Objection.

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1 BY MS. ROHN:

2 A. I don't know.

3 Q. And do you have any information that the -- this
4 information as to this types of documents ever existed
5 before July 22, 2021?

6 MR. KAPLAN: Object to the form of the
7 question.

8 BY MS. ROHN:

9 A. No, I don't know.

10 Q. And then as we scroll up to that, this is from
11 Andrew Canning responding to Constantinou, "Thank you for
12 the documentation summary which will provide a good basis
13 to form an assessment from.

14 "One of the big document anomalies is with the
15 attached WPQ documents which are on close inspection --
16 which on close inspection are obviously PDF edits to
17 someone else's original certification. (If you zoom in you
18 can see the print clarity and font changes in certain
19 fields) and while it clearly states the assessment was
20 based on acceptance of guide bend test, they are now
21 telling us that the tests were done by Phase array for
22 which I suspect (conveniently) no hard copy test results
23 are available."

24 Did you ever see this e-mail from Mr. Canning?

25 A. I don't -- I don't recall.

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1 So it appears, would you agree with me, sir, that
2 there are changes that are being made as to what
3 documentation is required?

4 MR. KAPLAN: Object to the form of the
5 question.

6 You may answer.

7 MS. FRANCIS: Objection. Form.

8 BY MS. ROHN:

9 A. We trying to agree which are the correct
10 documents to be requested or reviewed.

11 Q. Right. But this job started in February of 2021,
12 did it not, sir?

13 A. I don't remember when it started.

14 Q. And then if you'll scroll, there's an e-mail from
15 Andrew Canning that's on the top of the page to
16 David Smith.

17 "I think we --" oops, sorry.

18 "I think we should speak to Guillermo Castro without
19 Chad and Adrian so they can explore the full scope of the
20 supposed welder certification services, ideally via
21 videoconference."

22 So at or near at the time of this, is it not true that
23 IPOS had the ability to actually speak to Guillermo Castro
24 about the certifications and to clarify them; correct?

25 A. What was --

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1 Q. Well, then how did you know what the anomalies
2 were?

3 A. I was told by David Smith there was anomalies on
4 the -- on the certificates.

5 Q. And then, if you go to 1985, David Smith --
6 David Smith asked at the bottom of the page --

7 MS. ROHN: Go up a little bit. No, go down a
8 little bit I mean. I want to go up on the page which
9 is down on the thing. Sorry. Little bit up. Little
10 -- no, the other way. Wait. Wait. No -- yeah,
11 that's it.

12 BY MS. ROHN:

13 Q. "Hi, everyone, Just to be clear, should I copy
14 and paste Andreas' comments," i.e. the list of
15 documentation.

16 "And ask Petro to add Andreas and I to the Dropbox?"
17 Who did -- who did Andreas Constantinou work for?

18 A. This -- his e-mail is from VTTI.

19 Q. And then if you scroll up, Andrew says, "I was
20 thinking more of asking PIS to submit their complete
21 Quality dossier and full coding assessment records for the
22 welders - to be honest I think we probably already have
23 seen what they have to submit.

24 "Does anyone else think we should provide Andreas'
25 list for them to try and deliver against?"

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1 MS. FRANCIS: Objection.

2 BY MS. ROHN:

3 Q. I'm sorry. I didn't understand what you said.

4 A. No, I didn't understand the question.

5 MS. FRANCIS: Objection. Foundation, before
6 you repeat it.

7 MS. ROHN: Okay.

8 BY MS. ROHN:

9 Q. So from these e-mails, it's clear that -- would
10 you agree it's clear that Petro -- I mean that IPOS had the
11 ability to talk to Guillermo Castro about these welds and
12 the certifications?

13 MR. KAPLAN: Sorry. Object to the form of the
14 question.

15 You may answer.

16 MS. FRANCIS: Objection. Form. Foundation.

17 BY MS. ROHN:

18 A. I don't know if they could talk to him or not.

19 Q. Well, how can they be talking about seeing him on
20 videoconferencing without Chad and Adrian?

21 MS. FRANCIS: Foundation.

22 BY MS. ROHN:

23 Q. You may answer.

24 A. I can't -- I can't say why.

25 Q. And then if you scroll up on 1984, David Smith on

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1 July 22nd at 21:27, says "Andrew, they have made it clear
2 they want us to speak with him"; i.e., Petro wanted IPOS to
3 speak to Guillermo Castro.
4 Do you dispute that that was true?
5 MR. KAPLAN: Objection. Form.
6 MS. FRANCIS: Objection. Foundation.
7 (Interruption by the court reporter.)
8 MR. KAPLAN: I said, objection. Form. The
9 witness is not on any of these e-mails. So I'll stop
10 objecting to form if you to want rephrase your
11 questions.
12 MS. FRANCIS: And objection. Foundation.
13 Same reason.
14 BY MS. ROHN:
15 Q. You weren't on the e-mails. But did -- were you
16 aware, did anybody from IPOS make Vitol aware that they had
17 access to speak to Guillermo Castro?
18 A. No.
19 Q. And that in fact Petro was asking them to speak
20 to Guillermo Castro?
21 A. No.
22 Q. And then there's a question from Andrew Canning,
23 "Does that mean you, Merlin, Terry and Guillermo, Chad and
24 Adrian?"
25 And David Smith answers, "No, just Garry, Andreas,

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1 You may answer.
2 BY MS. ROHN:
3 A. No, I don't know.
4 MS. ROHN: 6374.
5 Let's go to another subject. Let's do 4054 in
6 81.
7 BY MS. ROHN:
8 Q. 4054 out of IPOS 81 is from David Smith to
9 yourself and Eduardo Garcia, April 4, 2019, "As discussed,
10 here is the contract."
11 MS. ROHN: If you scroll to the next page.
12 BY MS. ROHN:
13 Q. It is a contract with Petro.
14 Why would Vitol be receiving a copy of the contract
15 with Petro?
16 A. I don't recall why -- why we receiving this
17 contract.
18 Q. Well, it was sent to you, sir, wasn't it?
19 A. Four years ago.
20 Q. And then in Exhibit 40 -- on Exhibit 81, 541.
21 BY MS. ROHN:
22 Q. All right. I'm almost finished.
23 This is IPOS Exhibit 81, 541, from David Smith to
24 yourself, to Sebastian Moretti, and then Tim K. and
25 Charlotte.

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1 Wendy, Merlin, Terry and I. Just VTTI internal to discuss
2 with Garry."
3 Do you know who G-a-r-r-y is?
4 A. Which one, sorry?
5 Q. Do you know who this G-a-r-r-y is?
6 A. I don't -- I don't see it here.
7 Q. Okay. Well, the e-mail from David Smith says "We
8 have an internal call with Garry," G-a-r-r-y, "tomorrow.
9 Will develop a plan."
10 You see that?
11 A. Garry. Garry Stoker, I guess. That was the CEO.
12 Q. Okay. And who is Garry Stoker?
13 A. I assume it's the same Garry.
14 Q. Okay. What position did Garry Stoker have?
15 A. He was the CEO.
16 Q. Of who?
17 A. VTTI.
18 Q. And then Andrew Canning, if you scroll up, says
19 -- Andrew Canning says "Interesting, are you and the VTTI
20 team wavering on the invalidity of the information and
21 answers provided to date?"
22 And Mr. David Smith says "We just want the truth and
23 to understand what the implications are."
24 Do you know why no one ever spoke to Guillermo Castro?
25 MR. KAPLAN: Object to the question.

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1 Re Petro Industrial notification.
2 "Good morning, Just FYI, this was sent certified
3 yesterday and was sent via e-mail today. We are speaking
4 to our supervisor shortly. We are working for onboarding
5 another company, waiting on rates, et cetera.
6 "If you have any questions let me know."
7 Isn't this, sir, an e-mail about terminating Petro?
8 MR. KAPLAN: Object to the form of the
9 question.
10 BY MS. ROHN:
11 A. I -- I don't --
12 MR. KAPLAN: Can you show the witness the --
13 BY MS. ROHN:
14 A. Is there anything attached?
15 Q. Well, because it was produced without the
16 attachment.
17 Sir, isn't -- isn't it a fact, sir, that you were
18 involved in the decision to terminate Petro?
19 MR. KAPLAN: Object to the form of the
20 question.
21 You may answer.
22 BY MS. ROHN:
23 A. No, I wasn't.
24 Q. Well, why would they be telling you that they're
25 "working for onboarding another company, waiting on rates"

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1 if they weren't terminating Petro?
 2 A. Say it again. Sorry.
 3 Q. Why would they be telling you that they were
 4 "working for onboarding another company, waiting for rates"
 5 if they weren't terminating Petro?
 6 A. To avoid any communications with them.
 7 Q. What?
 8 A. To avoid any communications. I mean, there were
 9 several communications with Petro Industrial; so at this
 10 point they're telling us that --
 11 (Interruption by the court reporter.)
 12 BY MS. ROHN:
 13 Q. They're telling you who was not working with
 14 Petro anymore -- I mean IPOS anymore?
 15 MR. KAPLAN: I don't think the court reporter
 16 got his prior answer, so...
 17 MS. ROHN: Oh, I'm sorry.
 18 BY MS. ROHN:
 19 Q. Please repeat your prior answer.
 20 A. Sure. As per this e-mail, they were telling that
 21 Petro Industrial wasn't working with IPOS any -- any
 22 longer.
 23 Q. Right, because they sent him a certified mail
 24 yesterday telling them that their contract had been
 25 terminated.

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1 in? This is my last document.
 2 (Off the record.)
 3 (E-mails Bates Nos. 3894 to 3895 were previously
 4 marked as Exhibit 74 for identification.)
 5 MS. ROHN: So this is IPOS 3894. If you
 6 scroll down.
 7 BY MS. ROHN:
 8 Q. And you see --
 9 MS. ROHN: Let's do the top. Go back to the
 10 stop.
 11 BY MS. ROHN:
 12 Q. You see, sir, that on July 21, 2021, David Smith
 13 sends to yourself a copy of the e-mail below; correct?
 14 "IPOS Welders Certification." Importance: High.
 15 Sensitivity: Company Confidential?"
 16 What does "Company Confidential" mean?
 17 A. To try to not resend it outside the company.
 18 Q. Okay. And what qualifies for an importance high?
 19 A. Usually market information.
 20 Q. Okay. And this is from David Smith, says "Seba,
 21 Here is what Andrew found out."
 22 Correct?
 23 And then you scroll down. On July 2021,
 24 Andrew Canning to Garry Stoker, David Smith, "Subject:
 25 IPOS, Welders Certification."

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1 Isn't it a fact, sir, their contract was terminated on
 2 July 29, 2021?
 3 MR. KAPLAN: Object to the form of the
 4 question.
 5 You may answer.
 6 BY MS. ROHN:
 7 A. I mean, I don't -- I don't remember what was the
 8 attachment. But if the -- the contract -- you say the
 9 contract was terminated on that date, the contract was
 10 terminated on that date.
 11 Q. Why would you be told that?
 12 A. As you see, there were several communications
 13 between Petro Industrial and Vitol; so they were telling us
 14 that Petro Industrial wasn't working for IPOS any longer.
 15 Q. And then finally --
 16 MS. FRANCIS: I'm sorry. What is the Bates
 17 number on that document?
 18 MS. ROHN: 541.
 19 MS. FRANCIS: I did not hear you. Could you
 20 say that --
 21 MS. ROHN: 541.
 22 MS. FRANCIS: Thank you.
 23 MS. ROHN: Uh-huh.
 24 And then finally in Exhibit 74, 3894.
 25 Well, I need this document. So can you scan it

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1 "Garry, further to our conversation this morning, I am
 2 now as certain as I can be that the welder certification,
 3 (WPQ) presented by Petro Industrial Services are not
 4 genuine." And he lists a number of reasons.
 5 Is this where you got your statement that said that
 6 you understood that there were anomalies with the welder
 7 certifications?
 8 A. That's correct.
 9 Q. Other than this e-mail from Mr. Canning, do you
 10 have any information in that regard from anyone else?
 11 MR. KAPLAN: Object to the form of the
 12 question.
 13 BY MS. ROHN:
 14 A. Not -- not that I -- I recall.
 15 Q. And in making the decisions about Petro, did you
 16 rely on this document from Mr. Canning?
 17 MR. KAPLAN: Object to the form of the
 18 question. Misstates prior testimony. Assumes facts
 19 not in evidence.
 20 BY MS. ROHN:
 21 Q. You can answer.
 22 A. It wasn't my decision at all -- or Vitol decision
 23 at all to --
 24 Q. Well, then why were they sending this to you,
 25 sir?

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1 MR. KAPLAN: Object to the form of the
 2 question.
 3 You may answer.
 4 BY MS. ROHN:
 5 A. Just to keep me informed.
 6 MS. ROHN: I have no further questions.
 7 MR. KAPLAN: Counsel for Mr. Canning or IPOS,
 8 are there any additional questions for the witness?
 9 MS. FRANCIS: I do not on behalf of IPOS have
 10 additional questions.
 11 MR. SIMPSON: I have a couple of follow-ups.
 12 CROSS-EXAMINATION
 13 BY MR. SIMPSON:
 14 Q. This is Andy Simpson. I represent
 15 Andrew Canning.
 16 Sir, early in your deposition today you said that you
 17 got information from David Smith and that he -- that he
 18 said that he got the information from Andrew Canning.
 19 Do you know what information David Smith got from
 20 Canning?
 21 A. I think it was a copy of the -- the certificates
 22 on that e-mail.
 23 Q. You said you think. My question is: Do you know
 24 what David Smith got from Andrew Canning?
 25 A. Those e-mails -- that e-mail where they found

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1 this of Andrew that David Smith knew and communicated to
 2 him.
 3 MR. SIMPSON: Okay. Thank you. No further
 4 questions.
 5
 6 (At 12:59 p.m., the deposition of this witness
 7 was concluded.)
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CERTIFICATE OF REPORTER

1
 2
 3 I, YVONNE SAMUEL-SETORIE, Registered
 4 Professional Reporter, do hereby certify that the above and
 5 named witness, SEBASTIAN MORETTI, after being duly sworn,
 6 was examined and testified via Zoom video conference as is
 7 set forth; and that the answers of said witness to the oral
 8 interrogatories propounded by counsel were taken by me in
 9 machine shorthand, and represents the official transcript
 10 of said deposition; and that said deposition is true and
 11 correct, to the best of my ability.
 12
 13 I FURTHER CERTIFY that I am not counsel,
 14 attorney, or relative of either party, nor financially or
 15 otherwise interested in the event of this lawsuit.
 16
 17 IN WITNESS WHEREOF, I have hereunto
 18 subscribed my hand on this 7th day of July 2023.
 19
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 23
 24
 25

 YVONNE SAMUEL-SETORIE, RPR